

Resolutions of Tribal Council

(The following are recent resolutions of Tribal Council.)

Inmate funds

Whereas the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO) is a federally recognized Indian Tribe, and its Tribal Council is the duly elected governing body for the CTWSRO, operating under the authority of the Constitution and By-laws of CTWSRO, approved February 14, 1938, to protect and promote the general welfare of its members; and,

Whereas funds received from incarcerated individuals are held by the CTWSRO until expended by the individual, released by the individual, or returned to the individual upon or release from the Warm Springs Correctional facility; and,

Whereas these funds are currently kept in a secure safe; and,

Whereas the CTWSRO recognizes the need to establish a bank account in order to manage inmate funds; and,

Whereas CTWS recognizes the need to establish and set up a commissary in the Warm Springs Jail where personal hygiene and other items that are not required to be provided to inmates can be made available to them for purchase; and,

Whereas CTWSRO recognizes that it is in the best long term interests of the CTWSRO to establish separate, specific, identifiable bank and/or accounts for working capital and revenue related to the Inmate Commissary Service; and,

Be it resolved by the 25th Tribal Council of the CTWSRO, pursuant to Article V, Section 1 (d), (l) and (p) of the Tribal Constitution and By-Laws, that the Chief of Police or his designee, to establish a new bank account for the purpose of operating an Inmate Commissary Service in the Warm Springs Jail. As may be consistent with the Warm Springs Administrative Laws.

Be it further resolved that the Chief of Police, or his designee, is authorized to negotiate and execute any application or award documents in connection herewith the Inmate Commissary Service at the Warm Springs Jail, including any modifications thereto as required.

Be it further resolved that the Chief of Police is also authorized to administer the Inmate Commissary Service the Warm Springs Jail, to include expending profits for the direct benefit of the inmates. (Resolution no. 11,425.)

Walsh Act

Whereas per Resolution No. 10,774, the Tribe elected to participate as a registration jurisdiction under Title I of the Adam Walsh Child Protection and Safety Act of 2006 ("Adam Walsh Act"), which requires registration jurisdictions to create and implement a sex offender registration and notification program that meets the requirements contained in Title I of the Adam Walsh Act; and,

Whereas, as part of the Tribe's effort to create and implement a sex offender registration and notification program that is compliant with Title I of the Adam Walsh Act, the Warm Springs Tribal Council approved Ordinance 91, codified as Chapter 380 of the Warm Springs Tribal Code ("WSTC"), on April 1, 2010; and,

Whereas the United States Department of Justice recently issued supplemental guidelines for sex offender registration and notification and a revised substantial implementation checklist; and,

Whereas substantial compliance with the supplemental guidelines and the revised checklist requires that certain amendments be made to WSTC Chapter 380; and,

Whereas WSTC 380.410(2)(d) provides that the Tribal Registry Administrator must post notices containing information about newly registered sex offenders in key places on the Reservation; and,

Whereas the Tribal Council finds that the requirement to post notices pursuant to WSTC 380.410(2)(d) is overly burdensome for the Tribal Registry Administrator and is not necessary for compliance with the federal Sex Offender Registration and Notification Act; and,

Whereas the Tribal Council believes that the other notification requirements contained in WSTC 380.410(2) are sufficient to notify the community about registered sex offenders living in the Warm Springs community; now, therefore,

Be it resolved by the 25th Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1(a), (i), (l) and (u), of the Tribal Constitution and By-Laws, which the Tribal Council hereby adopts the amendments to WSTC Chapter 380 set forth in Exhibit "A."

Be it further resolved by the Tribal Council that the amendments to WSTC Chapter 380 set forth in Exhibit "A" shall be effective immediately. (Resolution no. 11,424.)

Meth prevention working group

Whereas the Confederated Tribes of the Warm Springs Reservation of Oregon recently joined the other eight tribes in Oregon in executing a "Memorandum of Understanding for the Purposes of Defeating the Methamphetamine Epidemic in Indian Country" ("Oregon Tribes Meth MOU"); and,

Whereas Part I of the Oregon Tribes Meth MOU calls for the establishment of the "Oregon Tribes Methamphetamine Working Group" with a representative of each of the nine Oregon tribes participating on the Working Group; and,

Whereas the Tribal Council believes that Eugene Austin Greene, Jr. would be an effective representative of Warm Springs on the Oregon Tribes Methamphetamine Working Group and Caroline Cruz would be an effective alternate representative on the Working Group; now, therefore,

Be it resolved by the 25th Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1 (a), (l), and (u) of the Tribal Constitution and By-Laws, that the Tribal Council hereby appoints Eugene Austin Greene, Jr. to serve as the Warm Springs representative on the Oregon Tribes Methamphetamine Working Group; and,

Be it further resolved by the Tribal Council that Caroline Cruz is hereby appointed to serve as the alternate representative for Warm Springs on the Oregon Tribes Methamphetamine Working Group. (Resolution no. 11,417.)

Reburial

Whereas certain Native American human remains and funerary objects were unearthed from United States Army Corps of Engineers, Portland District ("District") lands that are subject to the requirements of the Native American Graves Protection and Repatriation Act ("NAGPRA"); and

Whereas the District has agreed to facilitate the reburial of Native American human remains and funerary objects on District fee-title land southeast of Le Page Park near the John Day River, Sherman County, Oregon; and

Whereas the Memorandum of Agreement ("MOA"), attached as Exhibit "A," between the District, the Tribe, the Confederated Tribes and Bands of the Yakama Nation, and Confederated Tribes of the Umatilla Indian Reservation, Oregon is intended to facilitate the reburial; and

Whereas the MOA is limited in scope solely to the designation and use of a reburial site for Native American human remains and funerary objects that were unearthed from District fee-title lands; and

Whereas the Tribe desires to enter into the MOA attached as Exhibit "A"; now therefore,

Be it resolved by the 25th Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, section 1(a) and (l) of the Tribal Constitution and By-Laws, hereby authorizes the Secretary-Treasurer/CEO to execute the MOA, attached hereto as Exhibit "A," with any minor modifications deemed necessary by the Secretary-Treasurer/CEO; and

Be it further resolved that the Tribal Council hereby approves a limited waiver of sovereign immunity for the MOA, attached hereto as Exhibit "B" and authorizes the Secretary-Treasurer/CEO to insert the same into the MOA or to otherwise execute any necessary documents to effectuate the same for the MOA, such waiver to become effective upon execution of said documents. (Resolution no. 11,416.)

Biomass

Whereas Tribal Council believes that a biomass fueled energy generation facility located on the Reservation will provide economic, environmental and social opportunities for the Tribe and tribal members; and

Whereas Warm Springs Bio-Resources LLC ("WSBR") is an Oregon limited liability company wholly owned by Warm Springs Power and Water Enterprises ("WSPWE"), a chartered business enterprise wholly owned by the Tribe, which was formed for the purposes of developing and participating in a biomass-fired power generation facility on the Reservation and/or other activities associated with the Project; and

Whereas Northwest Energy Systems Company ("NESCO") a Washington limited liability company, is an experienced developer of power generation facilities in the Pacific Northwest, has substantial experience in power plant development, financing and operation, and has expressed interest in having its affiliate Oregon BioEnergy ("OBE"), an Oregon limited liability company, develop a 38 MW biomass-fired power generation facility, on approximately 100 acres of land located within

the Warm Springs Reservation (the "Project"); and

Whereas the Tribal Council, through Resolution 11,351, has previously granted a limited duration site license to OBE to facilitate OBE's ability to access the Site and undertake necessary permitting, feasibility and due diligence activities; and

Whereas the Memorandum of Agreement, Exhibit "A," sets forth the business terms agreeable to the Tribe for the good faith negotiations regarding the development of the Project and of definitive business agreements related to the Project that are necessary to permit and govern the location, financing, construction, operation and ownership of the Project on the Reservation; and

Whereas the Tribe desires to develop a long term and mutually beneficial relationship regarding the Project;

Whereas the WSPWE Board of Directors has approved the terms of the Memorandum of Agreement pursuant to Resolution No. 11-1; now therefore,

Be it resolved by the 25th Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, section 1(0) and (l), of the Tribal Constitution and By-Laws, Section 5(f) of the Tribal Corporate Charter, the Tribe hereby authorizes the Secretary-Treasurer to execute the Memorandum of Agreement, attached hereto as Exhibit "A," with any minor modifications deemed necessary by the Secretary-Treasurer; and

Be it further resolved that the Tribal Council hereby approves a waiver of sovereign immunity for the Memorandum of Agreement to become effective upon execution of said documents. (Resolution no. 11,415.)

River Conservancy

Whereas in 2005 House Bill 3494 ("HB 3494") created the Deschutes Ground Water Mitigation Program ("Program"); and

Whereas the Program provides for new groundwater uses while maintaining scenic waterway and instream water right flows in the Deschutes Basin; and

Whereas HB 3494 included a provision requiring repeal of the Program on January 2, 2014 ("2014 Sunset provision"); and

Whereas the Program has proven to be very successful in being able to accommodate urban and resort growth, making measurable improvements in Upper and Lower basin streamflows and benefiting irrigation districts and landowners; and

Whereas the Program is a central tool for the Deschutes River Conservancy's work, which has restored 160 cubic feet per second to the Deschutes River and its tributaries; and

Whereas the results of the Program and DRC efforts have directly served the Tribe's interests in water quality and quantity, fishery and aquatic habitat, riparian habitat, and hydroelectric generation, among others; and

Whereas legislation is proposed to be introduced in the 2011 Legislature to, among other things, eliminate the 2014 Sunset provision, making the program permanent; and

Whereas it is in the Tribe's

interests to eliminate the 2014 Sunset provision and ensure the continued operation of the Program; now therefore

Be it resolved by the 25th Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1 (a) and (l), of the Tribal Constitution and By-Laws, supports legislation to eliminate the 2014 Sunset provision of the Deschutes Ground Water Mitigation Program. (Resolution no. 11,414.)

Workers comp appeals judge

Whereas under the Warm Springs Workers' Compensation Code, Section 375.505(1) "the Tribal Council shall appoint the Workers' Compensation Appeals Judge", who shall hear and decide appeals arising out of disputed claims in the Warm Springs Workers' Compensation Program; and,

Whereas the Tribal Council has been advised that Bend attorney, Thomas C. Howes, who has served since 2005 as the Workers' Compensation Appeals Judge for the Warm Springs Workers' Compensation system, was recently appointed Deschutes County Deputy District Attorney and, accordingly, has submitted his resignation as the Warm Springs Workers' Compensation Appeals Judge; and,

Whereas the Tribal Council has been informed that William E. Flinn, a Bend attorney with forty years experience as a trial lawyer and as a mediator/arbitrator, has expressed an interest and willingness to serve as the Warm Springs Workers' Compensation Appeals Judge; and,

Whereas the Workers' Compensation Committee appointed by the Tribal Council to administer and oversee the tribal workers' compensation system has recommended that the Tribal Council appoint William E. Flinn as the Workers' Compensation Appeals Judge to hear and resolve disputed claims arising under the Workers' Compensation system; now, therefore,

Be it resolved by the 25th Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1 (1), (s) and (u), of the Constitution and By-Laws, and WSTC 375.505(1) that William E. Flinn is hereby appointed as the Warm Springs Workers' Compensation Appeals Judge; and

Be it further resolved that the Warm Springs Workers' Compensation Committee is hereby authorized to negotiate and execute a contract retaining the services of William E. Flinn as the Workers' Compensation Appeals Judge pursuant to WSTC 375.505 (1). (Resolution no. 11,413.)

TeleCo

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

Whereas by Resolution No. 11,181, Tribal Council formed the Warm Springs Telecommunications Company ("WSTC"), as a subordinate organization pursuant to Article V, Section 1 (o) of the Tribal Constitution and By-Laws, for the purpose of providing expanded and im-

proved telecommunication services on the Warm Springs Reservation to tribal members, Tribal and private businesses, critical facilities, Tribal and other governments; and,

Whereas by Resolution No. 11,181 Tribal Council recognized that it is in the best interest of the Tribes "to provide an effective mechanism to operate and manage telecommunications on the reservation" through WSTC; and,

Whereas the Articles of Incorporation of WSTC state that the purpose of the corporation is to enter the telecommunications business and become the general telephone provider on the Warm Springs Reservation in order to, among other things:

- Construct, operate and maintain telecommunications as a secure, profitable business of the Tribes as it related to all forms of telecommunications services, including the receipt and transmission of telephone signals over wire line, microwave, and cellular radio systems; the provision of cable television services and electronic data of all types and kinds;
- To develop, improve and manage the telecommunications infrastructure on the reservation and the lands of the Tribes;
- Enable the Tribes to develop its resources for the benefit of Tribal members; and
- To assist the Tribes in developing its Reservation into an economically viable homeland for present and future generations of our people; and

Whereas WSTC will provide the Reservation with new, state of the art, telecommunications that will support new economic development opportunities, educational benefits and improved health care for tribal members that would not be achieved without creation of the WSTC; and,

Whereas the success of WSTC, its ability to improve telecommunications infrastructure on the Reservation and to achieve the purposes and benefits identified in the WSTC Articles of Incorporation relies on the support of the Tribe, acting through its tribal administration and various departments, enterprises, subordinate bodies and tribal members; and,

Whereas in August and September, 2010, the Tribe and WSTC were awarded a Broadband grant and loan funding under the American Recovery and Reinvestment Act in the amount of \$5,445,920 ("ARRA Funding") and a technical assistance grant of \$200,000 through the U.S. Department of Agriculture Rural Utility Service ("RUS Grant"); and,

Whereas the ability for WSTC to repay the ARRA Funding loan and to meet the ARRA Funding and RUS Grant requirements is threatened when WSTC is not considered or consulted regarding the provision of telecommunications services to and for the Tribe and this undermines the ability of WSTC to provide benefits and services to the Tribe and the tribal membership; and,

WHEREAS, In order to best support the growth of WSTC and ensure its success for the benefit of the Tribe and tribal members, all tribal offices, departments, agencies, Enterprises, employees and agents of the Tribe must consider WSTC as a possible provider of telecommunications services to the extent that WSTC provides the required services; and

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