

Resolutions of Tribal Council

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

Appeals Court

Whereas the Tribal Council established the Warm Springs Court of Appeals pursuant to Article V, Section 1(i) and (s), which empowers the Tribal Council to establish courts to enforce the ordinances established by the Tribal Council, and to appoint subordinate boards and tribal officials, reserving the right to review any action taken by virtue of such delegated power; and

Whereas Article IV, Section 7 of the Tribe's Constitution and By-Laws provides that appointed boards and officers "shall report from time to time, as required, and their activities and decisions shall be subject to review by the Council upon petition of any person aggrieved"; and

Whereas, pursuant to its power to set up courts and appoint tribal officials, the Tribal Council established the Warm Springs Reservation Tribal Court, which includes the Trial Court and the Court of Appeals, the judges of which are appointed by and may be removed by the Tribal Council pursuant to the processes set forth in Warm Springs Tribal Code Chapters 200 and 203; and

Whereas it has become apparent to the Tribal Council that there is a general perception among the members of the Tribe's justice system as well as other members of the tribal organization and membership that the Court of Appeals is not adhering to the procedural and substantive statutes set forth in the Warm Springs Tribal Code and the Indian Civil Rights Act, which erodes the credibility and integrity of the Tribe's court system and thus the Tribe's sovereign authority and right to effectively enforce its laws; and

Whereas a number of reports issued over the last decade assessing the Warm Springs Tribal Court system have identified deficiencies regarding the practices of the Court of Appeals when conducting its review of the cases before it; and

Whereas the Court of Appeals has recently misdirected and failed to carry out the written decision and opinion of a *pro tern* panel of Appeals Court judges appointed by Tribal Council Resolution No. 11,155 to hear an appeal brought by a sitting judge of the Court of Appeals, which therefore disqualified the other judges of the Court of Appeals from hearing the matter as a conflict of interest; and

Whereas the action of the Court of Appeals in refusing to disclose and implement the decision of the *pro tern* panel is a direct affront to the constitutional authority of the Tribal Council, as set out above, and undermines the Tribal Council's constitutional power to govern the Tribe and its subordinate entities, including the Tribal judicial system; and

Whereas an effective court system, especially an effective appellate court, is essential for the operation of the Tribal government, the maintenance of law and order on the Reservation, economic development on the Reservation, and the integrity of the Tribe's sovereignty; and

Whereas the Tribal Law and Order Act of 2010 requires the

Tribe to employ judges that (1) are licensed to practice law, and (2) have sufficient legal training to preside over criminal proceedings if the Tribe decides to implement the enhanced sentencing provisions contained in the Act; 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(i),(s), and (u), of the Tribal Constitution and Article IV, Section 7 of the Tribal Constitution and By-Laws, that the Tribal Council directs the following actions:

1. The Tribal Council directs the Tribal Attorneys, Karnopp Petersen LLP, to engage a qualified consultant to conduct an inquiry into the systemic problems within the Court of Appeals as identified by prior studies of the Tribal Justice System, including the current structure and composition of the Court as set forth in Warm Springs Tribal Code Chapter 203;

2. The Tribal Council directs the Tribal Attorneys to instruct the consultant to provide a written report to the Tribal Council no later than 90 days after the date of this resolution to recommend proposed changes to the Court of Appeals aimed at alleviating these systemic problems. Such recommendations may include, but are not limited to, a change in the structure and composition of the Court and the required qualifications for Appeals Court judges, or, if the consultant deems the current structure and composition of the Court under Warm Springs Tribal Code Chapter 203 adequate, recommendations for removal and/or recruitment of some or all of the Court of Appeals judges after conducting an examination of the qualifications, suitability and performance of the current Court of Appeals judges. (Resolution no. 11,376.)

Casino

Whereas the Interior Department currently is in the final stages of considering the Cascade Locks casino project for a positive two-part determination under Section 20 of IGRA, which requires the Governor's concurrence, and for a final decision taking the land into trust, although it is not known how long it will take to complete this approval process; and,

Whereas the Tribal Council believes that the Interior Department's recent approval of the gaming Compact for the Cascade Locks casino demonstrates Interior's favorable assessment of the Cascade Locks project; and,

Whereas consistent with the May 21, 2002 Tribal Referendum, the Tribal Council remains determined to obtain final Department of Interior approval of the Cascade Locks project, and the Tribal Council is hopeful that final approval will be issued in the near future; and,

Whereas the Tribal Council realizes that following final Interior Department approval it may be a period of years before the Cascade Locks facility will open and begin operations due to planning, financing and construction requirements; and

Whereas based on the Warm Springs Gaming Board's report on the financial status of Kah-Nee-Ta High Desert Re-

sort and Casino, it is apparent to the Tribal Council that additional funding will assist in renovating Kah-Nee-Ta and to continue to effectively pursue the Cascade Locks project through final Interior Department approval and through the planning, financing and construction stages to casino opening; and,

Whereas the Tribal Council believes that moving the existing casino at Kah-Nee-Ta to a location along Highway 26 in the Warm Springs community appropriate only for a temporary casino will assist in providing some additional funding needed to continue with the Cascade Locks project, but Tribal Council agrees with the findings of the Final Environmental Impact Statement that a casino in the Warm Springs community along Highway 26 will not provide sufficient revenue to meet the Tribe's dire financial needs; and,

Whereas a temporary casino will provide a structure that could be used for other community purposes once the Cascade Locks project is approved and constructed and, as provided in the Cascade Locks Compact, the on-reservation casino moves to Cascade Locks; and,

Whereas the Tribal Council believes it is appropriate to appoint a "Warm Springs Temporary Casino Planning Team", which will be responsible for planning, seeking financing and construction of a temporary casino to be located on Highway 26 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), (f), (l) and (u) of the Tribal Constitution and By-Laws, that the "Warm Springs Temporary Casino Planning Team" is hereby established to be responsible for planning, developing and constructing a temporary casino along Highway 26 in the Warm Springs Community, and,

Be it further resolved that the Warm Springs Temporary Casino Planning Team shall be composed of two Tribal Council representatives designated by the Council, the Chairman and Secretary of the Warm Springs Gaming Enterprise Board of Directors, and the General Manager of Kah-Nee-Ta High Desert Resort and Casino, the Tribal Council Secretary-Treasurer/CEO, the Tribal Attorney, and such other tribal and enterprise staff and consultants as may be appropriate; and,

Be it further resolved that the Warm Springs Temporary Casino Planning Team is hereby directed to coordinate with the Warm Springs Gaming Strategy Team established by Tribal Council in 2008 and to report to the Tribal Council on a monthly basis until the temporary casino is constructed and open to the public; and,

Be it further resolved, the Tribal Council hereby directs the Warm Springs Gaming Strategy Team to continue to work diligently and expeditiously to obtain as soon as possible the Interior Department's final approval and the Governor's concurrence for the Cascade Locks project so that the permanent Warm Springs casino at Cascade Locks may proceed with planning, financing, construction and opening. (Resolution no. 11,380.)

BIA buildings

Whereas the Confederated Tribes of the Warm Springs Reservation of Oregon and the United States resolved non-monetary asset claims in the Phase II Settlement dated January 16, 2009; and

Whereas the Phase II Settlement addressed a specific list of buildings and facilities, and for each building on the list, the Tribe has the option of either requesting to have title to the Tribe made certain, or to reject title and request BIA removal of the building; and

Whereas after physical inspections and level I environmental testing the Tribe is prepared to provide notice that the buildings identified as "remove" in Exhibit A are not wanted by the Tribe, and that the Tribe requests expeditious removal of the same by the BIA; and

Whereas the BIA has agreed to do more complete environmental testing of the remaining buildings, and when that is completed, the Tribe will be in a position to provide notice to BIA of its desire to have the remediation work required by the Settlement Agreement and title made clear, or to reject title to other buildings on 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), (f), (l) of the Tribal Constitution and By-Laws, that the Tribal Council authorizes the Chief Operating Officer to provide notice to the BIA of its decision to reject title and request removal of the buildings and facilities identified in Attachment A. (Resolution no. 11,381.)

Public safety

Whereas the Tribal Council is committed to improving public safety on lands within the jurisdiction of the Tribe, including the Warm Springs Indian Reservation; and,

Whereas the Tribal Council recognizes that because of the Tribe's limited ability to enforce its criminal laws against non-Indian offenders and to sentence Indian offenders for long periods of time for the commission of serious offenses such as those covered by the Major Crimes Act, increasing enforcement of federal law on lands within the jurisdiction of the Tribe will improve public safety on those lands; and,

Whereas the Tribal Council believes that obtaining Special Law Enforcement Commissions from the Bureau of Indian Affairs for qualified officers employed by the Warm Springs Police Department will improve public safety on lands within the jurisdiction of the Tribe because those officers will have the authority to enforce both Tribal and federal laws; 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 authorizes the Chairman to enter into a Deputation Agreement ("Exhibit A") with the Bureau of Indian Affairs on behalf of the Tribe; and,

Be it further resolved by the Tribal Council that the Tribal Council hereby authorizes all

law enforcement officers employed by the Warm Springs Police Department who have received Special Law Enforcement Commissions ("SLECs") issued through the Secretary of the Interior to enforce federal laws on lands within the jurisdiction of the Tribe. (Resolution no. 11, 382.)

SAMHSA

Whereas the Tribal Council is the governing body of the Confederated Tribes of the Warm Springs Reservation of Oregon; and

Whereas the Tribal Council pursuant to Article V, Section 1 (1) of the Constitution is responsible to protect the health, security, and general welfare of the members of the Confederated Tribes of Warm Springs; and

Whereas the incidence of suicidal behaviors and/or thoughts is much greater for the Warm Springs Reservation and is considerably greater at twice the national average in proportion to other populations in the United States; and

Whereas the Tribal Council supports the Community Counseling Center in the development of programming to manage and treat youth at risk for suicide and increase the number of youth identified as at risk for suicide; and

Whereas the Tribal Council supports the development of suicide prevention and the development of programming in schools, juvenile justice programs, and community to identify and refer youth at risk of suicidal behaviors and/or thoughts and supports the reduction in risk factors and increase in protective factors; and

Whereas the Tribal Council is committed to a long-term effort which includes appropriate use of all available resources to effect the needed change in community attitudes, lifestyle choices, and health conditions to improve the health of the community; and

Whereas the Tribal Council has directed the Community Counseling Center to make suicide prevention a priority and seek funding to implement programming and recourses; and

Whereas the Tribal Council has directed the Community Counseling Center to submit an application for grant funding through the Substance Abuse and Mental Health Services Administration (SAMHSA) of a Youth Suicide and Early Intervention Grant (SM-11-001) to address the SAMHSA Strategic Initiative: Prevention of Substance Abuse and Mental Illness Cooperative Agreements for State-Sponsored Youth Suicide Prevention and Early Intervention; and

Whereas the Tribal Council pursuant to its powers and authority contained in the Constitution and By-laws to conduct the business and affairs of the Warm Springs Confederated Tribes; 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 (d) and (l) of the Constitution and By-Laws that the Tribes hereby submit our three year commitment to the Substance Abuse and Mental Health Services Administration (SAMHSA) of a Youth Suicide and Early Intervention Grant (SM-11-001) to address the

SAMHSA Strategic Initiative: Prevention of Substance Abuse and Mental Illness Cooperative Agreements for State-Sponsored Youth Suicide Prevention and Early Intervention grant funding

Be it further resolved that the Secretary-Treasurer/CEO is authorized to negotiate and execute any application or award documents in connection herewith with the Fiscal Year 2011 Substance Abuse and Mental Health Services Administration (SAMHSA) of a Youth Suicide and Early Intervention Grant (SM-11-001) Solicitation, including any modifications thereto as required. (Resolution no. 11,384.)

Ground water

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. 11,387.)

Justice grants

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

(Continued on the next page.)