

Resolutions of Tribal Council

(Continued from page 12)

Whereas Ventures' is planning on upgrading the Apparel Factory's roof, HVAC system, Septic and other required repairs to the building to make it usable; and,

Whereas due to the critical nature of services to be provided by the Tribal Telco timely property management is required to address potential building issues that arise from time to time; now, therefore,

Be it resolved by the 25th Tribal Council of the Confederated Tribes of Warm Springs Reservation of Oregon, pursuant to Article V, Section 1 (f), (l) and (o) of the Constitution and By-Laws as amended, that "Ventures" through its affiliated company "Warm Springs Property Management, LLC" is hereby assigned the Apparel Factory building in order to improve and maintain the building, market and lease the property to the Telco and Ventures' administrative offices in order to further the Tribes economic development and employment goals; and,

Be it further resolved that the Tribal Council authorizes Ventures through its affiliated company Warm Springs Property Management to negotiate, approve and execute all appropriate documents, fiscal instruments or contracts, permits and any amendments as needed to market and lease the above referenced property; and,

Be it further resolved Tribal Council maintains the right to prohibit any proposal it deems detrimental to Tribal land or its Membership.

Teleco infrastructure

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 for the purpose of providing expanded and improved telecommunication services on the Warm Springs Reservation to tribal members, Tribal and private businesses, critical facilities, Tribal and other governments; and,

Whereas by Resolution 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 the WSTC state that the purpose of the corporation is to, among other things, enter the telecommunications business and become the general telephone provider on the Warm Springs Reservation, to construct, operate and maintain all forms of telecommunications services including telephone services over wire line, microwave, and cellular radio systems, cable television services and electronic data of all types and kinds, and to develop, improve and manage the telecommunications infrastructure on the reservation and the lands of the Tribes; and,

Whereas in August, 2010, the Tribe and WSTC were awarded a Broadband grant and loan funding under the Ameri-

can Recovery and Reinvestment Act in the amount of \$5,445,920 ("ARRA Funding") and WSTC plans to begin implementing infrastructure improvements and other activities in support of telecommunications services in November of 2010; and,

Whereas the WSTC will be responsible for the care and maintenance of its current and future telecommunications infrastructure to a specified demarcation point which includes, but is not limited to communications towers, radios, antennas, fiber optic cable, and other outside plant telecommunications facilities associated with the distribution of wired and wireless communication services; and,

Whereas the Tribe, its departments and enterprises currently manage many existing telecommunication assets on the reservation; and,

Whereas the Tribe currently funds the maintenance of telecommunications infrastructure out of its capital budget; and,

Whereas in order to effectively manage its existing and future telecommunications infrastructure the Tribal Council finds that it is in the best interest of the Tribe to consolidate the management of the outside plant telecommunication assets on the reservation under the WSTC; now, therefore,

Be it resolved by the 25th Tribal Council of the Confederated Tribes of Warm Springs Reservation of Oregon, pursuant to Article V, Section 1 (f), (l) and (o), that management of the outside plant Tribal telecommunications infrastructure be assigned to the WSTC; and,

Be it further resolved that a written directive shall be issued to all offices, departments, agencies, employees and agents of the Tribes, its enterprises and subordinate bodies, notifying them of the purposes and requirements of this resolution. (Resolution no. 11,411.)

Teleco service preference

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 improved 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

Whereas in the event the WSTC cannot provide required services or the service does not meet the requirements of the Tribe, then tribal offices, departments, agencies, Enterprises, employees and agents of the Tribe must enlist the consulting services of the WSTC in making telecommunications decisions in order to ensure that any product or service selected is compatible with the technology utilized by the WSTC; now therefore,

Be it resolved by the 25th Tribal Council of the Confederated Tribes of Warm Springs Reservation of Oregon, pursuant to Article V, Section 1 (f), (l) and (o), that all tribal offices, departments, agencies, Enterprises, employees and agents of the Tribe are directed to give preference to WSTC in the award of telecommunications contracts for services to and on the Warm Springs Reservation pursuant to tribal guidelines for Indian Preference of Indian-

owned economic enterprises; and

Be it further resolved that all tribal offices, departments, agencies, Enterprises, employees and agents of the Tribe are directed to consult WSTC regarding any telecommunications service or product to be purchased by a tribal entity and to, in any such purchase, maintain compatibility with WSTC to the extent feasible; and

Be it further resolved that a written directive shall be issued to all offices, departments, agencies, Enterprises, employees and agents of the Tribe notifying them of the purposes and requirements of this resolution. (Resolution no. 11,412.)

Bio-mass

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, attached hereto as 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 (f) 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.)

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"), 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.)

Tribal farm

Whereas the Warm Springs Reservation is reserved for the exclusive benefit of the members of the Confederated Tribes of the Warm Springs Reservation of Oregon; and,

Whereas the agriculture land of the Confederated Tribes of the Warm Springs Reservation of Oregon, is of significant cultural and traditional value to the people of the tribes; and,

Whereas that the Range and Agriculture Committee and the Land Use Committee have been working with an Ad Hoc Cropland Planning Group composed of tribal members and technical staff, representatives from Oregon State University, Oregon State University Extension,

Natural Resources Conservation Service, members of Cultural and Heritage Committee, Water Board, and Indian Health Services (IHS), whose purpose has been to provide perspectives, study issues, and develop recommendations to assist the Range and Agriculture Manager in the establishment and operation of the Tribal Farm; and,

Whereas the Branch of Natural Resources is charged with the responsibility of managing preserving and enhancing the Tribe's natural, cultural resources and sovereignty for the benefit of the Confederated Tribes and its tribal members; and,

Whereas the Range and Agriculture Department within the Branch of Natural Resources has the responsibility of tribal agriculture land and the implementation of the Restoration Plan, and development of a Farm Business Plan, that will provide opportunities for tribal member employment, and with an integrated approach to project planning consistent with Integrated Resource Management Plan (IRMP); and,

Whereas the Tribes will be using their adjudicated water rights; and,

Now therefore be it resolved by the 25th Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, that pursuant to Article V, Section I (a), (c), (d), (f), (l), and (o), (u) of the Tribal Constitution and By-Laws, consistent with Range and Agriculture Restoration, that the Range and Agriculture Department establish a Tribal Farm by re-establishing irrigation on all irrigable lands in the area known as Moody and to be expanded to other tribally owned land as practicable and desirable; and,

Be it further resolved that the Range and Agriculture Department will hire a tribal farm manager, answerable to the Range and Agriculture Manager, who will develop and operate the tribally owned farm profitably to increase tribal member employment and generate needed income from tribal lands; and,

Be it further resolved that all revenues generated by the Tribal Farm will be placed into a revenue account to be managed by the Range and Agriculture Department. The monies from this account will be carried forward each year necessary for the continued operation of the Tribal Farm; and,

Be it further resolved, the Tribal Council authorizes, on a continuing basis, the release of funds upon the request of the General Manager of the Branch of Natural Resources pursuant to an annual budget and use plan to assure funds are available in amounts at times said manager determines are necessary to expeditiously execute the work detailed in the Restoration Plan, as set forth in the Trust Settlement Agreement.

Be it further resolved the Tribal Council directs and authorizes the Secretary-Treasurer/CEO and Chief Operations Officer to work collaboratively with the Branch of Natural Resources/Range and Agriculture Department, affected Tribal Committees, BIA, IHS, USDA and other agencies to seek and secure the necessary agreements and financial resources, subject to Tribal Council review and concurrence, to implement the intent of this resolution. (Resolution no. 11,411.)