



The drum at the Miss Warm Springs Pageant.

Jayson Smith/Spilyay

Agreement: tribes, state agree on cannabis project

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The state has no regulatory jurisdiction on the reservation, and therefore cannot impose regulation on tribal cannabis production on-reservation.

At the same time, the state through the OLCC determines the products that are allowed to be sold at cannabis stores in Oregon.

So in order to have a viable enterprise on the reservation, the tribes and state need an agreement allowing the tribes access to the Oregon market. At the same time, the sovereignty of the tribes is to be respected.

To accomplish this, the tribes' Cannabis Commission will be the regulatory body for production on the reservation.

The commission will ensure that the product meets the state standards, including aspects such as allowable fertilizer and solvents, for example.

When the tribal product meets the state standards, the tribes can then export the particular shipment from the reservation to the state market. There is no plan for sales on the reservation.

The inter-government agreement includes provisions regarding a scenario in which the tribal product does not meet the state standards. In this case the state would be able to prohibit, or embargo the product from the state market.

If this happens, the Cannabis Commission would work with the OLCC on resolving the matter. An em-

bargo scenario would most likely be mutually agreed upon between the tribal and state regulatory bodies, Ellen Grover said.

The inter-government agreement envisions a cooperative approach, which the tribes have taken with both the state and federal government on this issue.

There is a dispute resolution process set out in the inter-government agreement, in case the Cannabis Commission and OLCC do not come to a mutual agreement.

In an unlikely and worst case scenario, an irreconcilable disagreement would end up in state court in Marion County. This was a point of concern for Tribal Councilman Jody Calica: The state at times has been at odds with the tribes, he said, in matters such as fisheries and hunting, and even the null and void "treaty of 1865."

The tribes' legal counsel said she would bring up the matter with the state counsel, in order to clarify this point as to tribal sovereignty.

The inter-governmental agreement is for a term of ten years, with an automatic renewal possible for another ten years.

The tribal membership in late 2015 passed the cannabis referendum with more than 86 percent of the voters saying yes. The referendum also saw the largest turnout of voters, for a referendum, in tribal history.

Meanwhile, Ventures is in the process of hiring an executive director of the cannabis enterprise.

Timber Co.: Council okays through 2017

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Instead, the legal recourse is limited to the LLC itself.

The Timber Company appears to be the first LLC of the Confederated Tribes, Hamstreet said.

The Tribal Council agreed to form the company last year, after Warm Springs Forest Products Industries became insolvent. At the time, around late spring of last year, the WSFPI insolvency meant that some of the timber resources—timber on the ground in the forest, for example—were in jeopardy of going to waste.

It was also important to go ahead with already-planned timber sales, because the 2016 tribal budget anticipated some of this revenue.

enue.

The LLC was the choice to move forward, and the company was successful in making sales; although waiting for an approval from the BIA, some of the logs on the ground were lost to bug infestation.

Still, the company as a start-up had a successful year. At first there was a matter of re-establishing the credibility of the tribal timber sales, as fallout from the WSFPI insolvency created doubt among major players in the regional market, Hamstreet said. The good reputation has since been restored, he said.

The Timber LLC will be the sole purchaser of tribal timber in 2017, with the ex-

ception of one sale of about 6 million board feet. This sale will go directly to a company that will harvest and haul the logs. This will be used as a test, to compare benefits to the tribes of the two approaches.

Meanwhile, the reservation timber allowable cut is set at 25 million board feet. In addition, there are about 11 million board feet from 2016 that were not harvested, and this timber will be added to the 2017 inventory.

Earlier in December, when the Tribal Council considered continuing the Timber Co. in 2017, the vote on the resolution was 3-0-6: There were three in favor, no one against, three abstains

plus three out of the room.

The result of this was unclear. Rather than debate the question, Council decided to read the resolution again and have a re-vote.

This time it passed 6-2-0. Councilman Ron Suppah supported the resolution, but nevertheless said he was concerned that the BIA agency superintendent had not been present at these meetings regarding timber sales.

The BIA has a trust and fiduciary duty regarding the resource, and proceeding with no BIA representative is concerning, Councilman Suppah said.

At the time of these meetings, the BIA Warm Springs Agency had no permanent superintendent.

Court issues big decision in Indian Child Welfare Act case

The Indian Child Welfare Acts was passed by Congress in 1978.

The Act is a federal law that seeks to keep American Indian children with Native families.

Congress passed ICWA in 1978 in response to the alarmingly high number of Indian children being removed from their homes by both public and private agencies.

The intent of Congress under ICWA was to "protect the best interests of Indian children and to promote the stability and security of Indian tribes and families."

ICWA sets federal requirements that apply to state child custody proceedings involving an Indian child who is a member of or eligible for membership in a federally recognized tribe.

Over the years the act has been misinterpreted or ignored by local courts while dealing with Indian parents and their children.

After several years of fighting with the Rapid City, South Dakota, court system to enforce the ICWA, attorney Dana Hanna received judgement from Chief Federal Judge Jeffery L. Viken in the U. S. District Court.

The case that finally

reached the conclusion was known as "Oglala Sioux Tribe, and Rosebud Sioux Tribe to protect the rights of Madonna Pappan, and Lisa Young, individually and on behalf of all other persons similarly situated."

Plaintiffs Madonna Pappan and Lisa Young live in Pennington County and are member of the Oglala Sioux Tribe and the Standing Rock Sioux Tribe.

The court classified them as class representatives for all similarly situated Indian

parents.

In a March 2015 court order the judge found the defendants had violated the plaintiff's due process rights under the 14th Amendment during the course of the 48-hour hearings. Among the findings:

The defendants failed to appoint counsel in advance of the 48-hour hearing. They failed to provide notice of the claims against Indian parents, the issues to be resolved and the state's burden of proof, and denied the

plaintiff's the right to cross-examine adverse witnesses. They denied Indian parents or custodians the right to present evidence in their own defense, and removed Indian children on grounds not based on evidence presented in the hearing.

The December, 2016 order applied a permanent injunction on the defendants, stating that in their official capacities they are "hereby immediately and permanently restrained and enjoined from engaging in the

following activities:

Violating the constitutional rights of plaintiffs guaranteed by the Due Process Clause of the 14th Amendment;

Violating the statutory rights of the plaintiffs guaranteed by the ICWA and particularly those rights guaranteed by 25 U. S. C. s 1922 et seq, and

Violating the constitutional and statutory rights of the plaintiffs as set out in the Declaratory Judgement entered on Dec. 15.

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