

Leno calls the agreement 'disheartening'

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from front page

16, Oregon Transportation Commission meeting to lodge a strong protest.

Grand Ronde Tribal Council Chairman Reyn Leno was accompanied by Tribal Council members Tonya Gleason-Shepek, Jack Giffen Jr. and Denise Harvey, as well as Acting TERO Director John Mercier, Tribal Attorney Rob Greene, Assistant Tribal Attorney Kim D'Aquila and Tribal lobbyist Justin Martin.

Leno testified for five minutes during the commission's public comments period, calling the memorandum of understanding between ODOT and Warm Springs "disheartening."

Leno's testimony comes on the heels of Department of Transportation Director Matt Garrett visiting Tribal Council on Tuesday, Feb. 14, where he said that the department had "exhausted all avenues" in trying to reach an agreement that was acceptable to both Tribes.

The proposed ODOT-Warm Springs agreement would run through January 2019 and include a 60-mile radius that would begin on the Warm Springs Reservation, which would create the contentious overlap on the west side of the Cascades.

Leno said before giving his Transportation Commission testimony that Tribal Council wanted to explain its position to the membership.

And that position boils down to treaties. The Grand Ronde Tribe has seven ratified treaties with the United States, including the Willamette Valley Treaty of 1855 that ceded most of western Oregon to the federal government.

The Warm Springs Tribe has the largest Reservation in Oregon that is located east of the Cascade Mountains. However, its agreement with the Department of Transportation would give Warm Springs Tribal employment rights over the crest of the Cascade Mountains into Grand Ronde's ceded homelands.

Leno reminded the Oregon Transportation Commission that Grand Ronde signed a memorandum of understanding with ODOT in January 2014 that ensures contractors engaged in federal-aid highway construction projects within a 60-mile radius of the Grand Ronde Reservation work with the Tribal Employment Rights Office to provide employment preference to qualified Native American workers.

Grand Ronde also collects a fee — 2.25 percent for the first \$2 million — for qualified construction projects that helps fund the TERO program.

"The boundary in the MOU includes the Portland metropolitan area, an area within a reasonable commuting distance from Grand Ronde and part of our treaty homelands," Leno said. "Since 2014, Grand Ronde's Tribal Employment Rights Office has supplied qualified Indian workers, including members of the Siletz and Warm Springs Tribes, to serve

Potential TERO Boundary Overlaps



Map created by George Valdez

Depending on where the center of the 60-mile radius is designated in the Oregon Department of Transportation and Warm Springs Tribal Employment Rights agreement that is currently being negotiated, the overlap with the Grand Ronde Tribe's already established TERO area in the Willamette Valley varies. From top to bottom, the overlap changes if the Warm Springs center is designated from the center of the Warm Springs Reservation, the town of Warm Springs or the northwestern boundary of the Warm Springs Reservation with Highway 26.

as flaggers, laborers, masons and painters on more than 38 highway projects, including 17 projects in the Portland metropolitan area. In 2016 alone, at least 50 workers on those projects were sent by the Grand Ronde TERO. Contractor feedback on these workers has been uniformly positive.

"Because of our long cooperative history with ODOT, it was extremely disheartening to learn earlier this week that Director Garrett has decided to sign an MOU with the Confederated Tribes of Warm Springs Tribal Employment Rights Office, which includes a project boundary that will overlap with the project boundary covered by Grand Ronde's existing MOU."

Leno said that an overlapping TERO boundary between two Tribes likely will create administrative difficulties and contractor confusion. Other Tribal Council members expressed their concern during the Feb. 14 meeting that Warm Springs will be teaching its history to contractors working

in Grand Ronde's ceded homelands.

"The area of overlap is well beyond a reasonable commuting distance for residents of the Warm Springs Reservation, and it includes a large part of Grand Ronde's treaty homelands," Leno said. "Recognition and preservation of Grand Ronde's history in the area and the positive contractor relationships we have developed are of the utmost importance to the Tribe."

Leno requested that the Oregon Transportation Commission not move forward with any TERO agreement that creates an overlapping boundary until Grand Ronde, Warm Springs and ODOT develop a solution that can be implemented when the existing Grand Ronde MOU expires in January 2019.

"Grand Ronde raised with ODOT and Warm Springs these and other concerns with overlapping project boundaries when it first learned of Warm Springs' proposed project boundary," Leno said. "To our knowledge, our concerns will not be addressed in the Warm Springs MOU."

"We understand that Director Garrett is in the unenviable position of navigating different Tribal interests, but simply ignoring Grand Ronde's concerns is a betrayal of our past partnerships and government-to-government relationship with ODOT."

Leno also cited the Tribe's substantial financial contributions to state roadway projects designed to relieve congestion and improve traffic safety, such

as \$4 million donated to the Newberg-Dundee Bypass and the Grand Ronde Road improvement project.

Transportation Commission Chair Tammy Baney was the only one of four commissioners in attendance to respond and she remained non-committal, thanking Grand Ronde representatives for their time in attending the meeting.

"I have been briefed on the issue and the partnership is very important to us," Baney said. "It is my understanding that there are other conversations that will be ongoing. I very much appreciate you being here today to share with us. We are aware of this and we appreciate your time spent in bringing this to our attention."

The memorandum continues the Grand Ronde Tribe's contentious relationship with Warm Springs, which continues to pursue inroads into the Willamette Valley and balked during TERO boundary negotiations at recognizing the Grand Ronde Tribe's treaties.

In the 2000s, Warm Springs

proposed building a casino in the Columbia River Gorge, which is part of the Grand Ronde Tribe's ceded homelands. More recently, Warm Springs attempted to acquire hunting tags on the west side of the Cascades, but was unsuccessful, and the eastern Oregon Tribe purchased 277 acres in Yamhill County as part of the Bonneville Power Administration's Willamette Wildlife Mitigation Program.

"Our expectation is that we don't go on the other side of the mountain. We're not going over there trying to do that to them. This is really disappointing to us," Leno said during the Feb. 14 meeting with Garrett in Tribal Council's conference room.

"This is probably one of the most disappointing decisions I have ever seen come out of the state government," Giffen said during the Feb. 14 meeting. "We've been restored for 33 years and we've gone through every agency with a similar outcome. We make compromises. We come to the table and we negotiate and make compromises, but it seems like some of the other Tribes, they come in and demand and get what they want. ... We went to the table with those folks and gave them a very, very small piece of language that they just recognize this as our ceded lands and they refused that. Then you folks go and give them the opportunity to fulfill their dreams."

Garrett said that Tribal disagreements might become more frequent in the future as the Siletz Tribe seeks to establish a Tribal Employment Rights Office, which would create another overlap between Oregon Tribes.

John Mercier, the Grand Ronde Tribe's Acting TERO director, said that the current program has 317 potential workers, including 30 Warm Springs Tribal members.

"We accept all federally recognized Indians in our program," Mercier said.

He said the potential solution is a proposal that is being examined in Washington state where a statewide agreement would dictate that overlapping Tribal boundaries require the affected Tribes to share in TERO fees and employment and the closest Tribe would administer the project.

"We just want our aboriginal areas acknowledged," Mercier said.

"A lot of people always tend to think that we go argue with other Tribes," Leno said during the Tuesday, Feb. 21, Legislative Action Committee meeting. "There's another Tribe that is coming in and does not want to acknowledge our treaties and wants to do an MOU that will overlap with our MOU. ... We met with that Tribe twice and tried to work things out. People tend to think we go and pick fights with other Tribes, but in this case are doing what we need to do to protect our treaties and ceded lands."

The official language of the ODOT-Warm Springs agreement is currently being negotiated, Garrett said in the Feb. 14 meeting. ■