

# PGE, state debate land ownership

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and Brandon Weems, who now have to cross the river to access the platform site instead of just crossing PGE property.

"I wouldn't have missed that moment for anything," George said. "We are so proud of our team out there, taking this risk to build a platform so we can conduct our ceremonial fishing in a safer manner."

On Wednesday, George and several other Tribal Council members spent the day at an overlook on the Oregon City side of the falls as a show of support for employees who now have to traverse slippery rocks near swift water and pull themselves and a raft full of supplies, hand over hand, on ropes suspended from the Oregon City side to the West Linn side.

"We don't want them risking their lives, and are hoping and praying it all goes well today and that we will have the foundation in place to move forward and have this completed," George said.

The Oregon Department of State Lands granted approval on Aug. 31 to the Tribe to build a platform at Willamette Falls on which to harvest its annual state-approved take of 15 Chinook salmon and/or hatchery summer steelhead for ceremonial purposes. Soon after, Grand Ronde Tribal representatives blessed the site on Sept. 4.

## Land ownership debate

The utility company is asserting that the location on the rocks where the Tribe is constructing a removable platform is its land, not state land. The company has appealed the state permit.

In a Sept. 14 letter from Tribal Attorney Rob Greene, released by PGE to *Smoke Signals*, he states that an extensive ownership study was conducted by a Department of State Lands consultant and it found that the areas on which the Tribe wants to install platform footings are indeed state lands. PGE disagrees.

"In order to allow any outside activity (on PGE property), an agreement needs to be recognized by the Federal Energy Regulatory Commission," PGE spokesperson Steve Corson said.

FERC is an independent agency that regulates the interstate transmission of natural gas, oil and electricity. FERC also regulates natural gas and hydropower projects, such as Willamette Falls.

"I would observe that we are more than happy to grant access when we have an agreement in place that respects cultural connections to this place by other Tribes as well," Corson said. "We want to be respectful of these different Tribes and traditions."

The Umatilla and Warm Springs Tribes are threatening to challenge the state permit in court, claiming the Grand Ronde platform will interfere with their treaty rights to harvest lamprey at the falls.

George said that PGE revoked



Photos by Timothy J. Gonzalez



**Tribal members and staffers begin the process of building the new fishing platform at Willamette Falls in Oregon City on Wednesday, Oct. 3. At left, A PGE employee keeps a watchful eye as Tribal members and staffers at the new fishing platform at Willamette Falls in Oregon City on Wednesday, Oct. 3.**

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"without cause" on Sept. 21 its permission to allow Tribal use of its land to access and build a fishing platform.

Previously, the Tribe was allowed to access the site from PGE property on the West Linn side of the falls to conduct ceremonial fishing and perform blessings, a much safer option than crossing the river to access the site.

Corson said there appears to be a "difference in recollection."

"We never had an agreement in place that would allow the Tribe to build the fishing platform," he said. "The issue here relates to the construction. ... What I would emphasize here, from PGE's perspective, is that we have been supportive of these traditional practices at the falls, but there needs to be an agreement in place and that all concerned are on the same page."

As early as Aug. 29, PGE stated in a letter to Department of State Lands Director Vicki Walker that the company had not granted access across its property for "construction or use of any fishing platform on DSL or PGE land." The letter also was given to *Smoke Signals* by PGE.

The Sept. 21 letter to Greene, also obtained from PGE, states that although there are safety concerns

regarding the project and disagreements over land ownership, the company wants to move forward and refers to a draft Traditional Cultural Practices License Agreement that would incorporate Grand Ronde and other interested Oregon Tribes.

"PGE wishes to continue to work with the CTGR, as well as any interested Tribes, to facilitate traditional cultural practices at Willamette Falls. ... The draft agreement provides generally for a platform, provided safety conditions are met, that a non-project use of project lands filing is approved by FERC, and cultural resource issues are addressed in a manner consistent with the settlement agreement for the license and transparent to all stakeholders, including other Tribes."

The Grand Ronde Tribe's response to the Sept. 21 letter reiterated that there is nothing for PGE to authorize in regard to the platform site since the Department of State Lands study has concluded that the utility is not the property owner. "The ownership determination is conclusive," Greene said.

"Grand Ronde intends to proceed with platform construction under its valid Waterway Structure Registration issued by DSL and this does not require authorization

from PGE or FERC," Greene wrote. "DSL is not bound by PGE's FERC license. In addition, Grand Ronde has identified alternative access to the platform sites, including via waterway and river bed and bank access as authorized by state law. DSL has confirmed and authorized access through this method."

PGE said it has a "longstanding dispute" with the state regarding ownership of the fishing platform site and has "been working through this property issue for years."

## Staying positive

George said he is trying to stay positive and is hopeful Tribal members will fish from the platform before the year is over.

"In our agreement (with the state) we have included the other Tribes to use our platform, but this is where it has ended up," he said.

In reaction to PGE suspending access to its property, Tribal Council voted on Sept. 26 to rescind a permit letter agreement it approved in early May with PGE that included a limited waiver of sovereign immunity.

Tribal Council members Steve Bobb Sr., Kathleen George, Lisa Leno, Michael Langley and Denise Harvey also traveled to Oregon

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