

Current MOA will remain in effect for now

MEETING continued
from front page

es Department Manager Colby Drake, Cultural Policy Analyst Greg Archuleta, Tribal Cultural Advisor Bobby Mercier, Tribal Ceremonial Fisher Jade Unger and Tribal Elder and past Tribal Council Chair Reyn Leno.

Dirksen told the commission that he was part of the team who helped put the MOA together and had worked with commission staff and other Tribes to develop the plan.

“We thought we were ready to roll in June 2023 when the MOA was on the agenda, but it was pulled and delayed to give what turns out to be the petitioning Tribes more time to review,” he said. “Then, it was back on the agenda in August 2023 and you approved that plan. I really wish you could see the power of the decision you made that day...The best description I can give you is that it was really a celebration. We have Tribal members who have waited decades to hold a Tribal tag to hunt and fish in these areas that are so important to the Tribe.

He continued, “While I wish I could keep talking to you about the great things that have happened under the MOA, we’re here to talk about these petitions and the desire of a group of Tribes to take those rights away. We’ve heard a lot about federal treaty claims. I’m a biologist, not an attorney, but I do know that federal treaty claims need to be done in federal court and not here with the commission. Our agreement was with you. It wasn’t with other Tribes.”

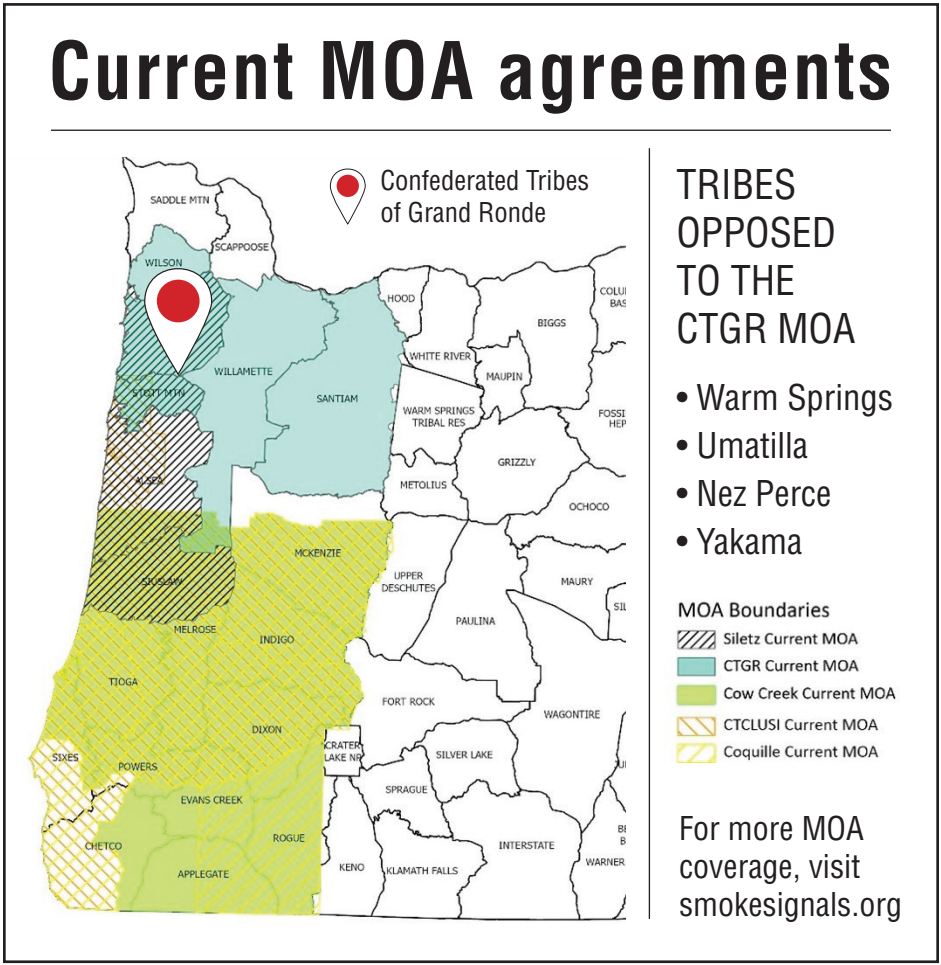
Dirksen noted that the MOA wasn’t a “blank check,” with an unlimited number of tags issued that would subsequently deplete wildlife populations.

“Every single year, we work to develop a proposal that covers what we intend to do that year,” he said. “We work carefully with ODFW staff to make sure our proposal will not have an impact on the resources.”

Chris Mercier urged the commission to “focus on what you know has happened so far.”

“Just because a Tribe says they have rights doesn’t necessarily make it so and there are areas... (mentioned) by the petitioners that have not been adjudicated...that tends to be the providence of the federal court to adjudicate those areas. In any case, Grand Ronde’s right to hunt and fish in those locations because of the MOA does not actually conflict with other Tribes’ ability to hunt and fish...It is not exclusive, and there’s nothing in the Grand Ronde MOA that prevents other Tribes from exercising their hunting and fishing rights in those units...Like I said in the past, please focus on the facts when you try and make this decision, not what-ifs or hypotheticals, but what has happened in the two years since this MOA took effect.”

In addition to Jon A. George and Mercier, other Tribal Council members in attendance included Denise Harvey, Lisa Leno, Kathleen



Graphic by Samuel Briggs III

George, Tonya Gleason-Shepek and Matthew Haller.

Grand Ronde’s current MOA will remain in effect until the commission decides whether to repeal or amend it. There is no specific timeline for the process. By law, MOAs are reviewed by both parties every five years regardless.

“Accepting the petition does not nullify any of the MOA’s current provisions,” ODFW Commissioner Bob Spelbrink said. “It just says, ‘Let’s continue to move forward to a proposal that all parties accept. There’s no intention of pursuing any major changes to the current MOA that will reduce any Tribal opportunities...I don’t see anything here that would reduce that opportunity you’ve had the last couple of years. I appreciate all of the input here today.’”

The MOA signed between the Tribe and ODFW on Aug. 4, 2023, expanded the cultural hunting, fishing and gathering area from the 1,300-square-mile Trask Unit to more than 11,000 square miles. The agreement is limited to subsistence and ceremonial harvest. The Tribe is not allowed to implement any commercial harvest opportunities.

“It is intolerable to see Oregon turn its back on this previous commitment to honor ceremonial and subsistence fishing and hunting,” an emailed statement from the Tribe said. “This land is integral to who Grand Ronde is and who (we) have been since time immemorial. The reopening of the MOA sends a clear message: The state of Oregon no longer acknowledges Grand Ronde’s rights like it did only two years ago.”

Four other western Oregon Tribes; the Coquille Tribe, Siletz Tribe, Coos, Lower Umpqua & Siuslaw Tribes, and Cow Creek Band of Umpqua Tribe all have similar MOAs with the state. None of these have been considered for amendments or repeals after the agreements were approved by the commission.

“This is not a proud moment

in Oregon history – and instead marks the profound dysfunction in the state-Tribal government-to-government relationship,” Cow Creek Tribal Board of Directors Chairman Carla Keene said in an email. “It is unconscionable that four commissioners chose to undermine an agreement between the state of Oregon and the Grand Ronde Tribal government, prioritizing the voices of non-Oregon Tribes over an Oregon Tribe. A volunteer commission without an understanding of Tribal homeland integrity or Oregon Tribal history, and who does not engage in Tribal consultation, should not have the authority to determine the parameters of an Oregon Tribe’s sovereign rights...I don’t know where we go from here. This decision is a violation of trust and a blatant disrespect for the rights of one Oregon Tribe, which sends a message to all Oregon Tribes. The question now is how – and if – we can recover and repair, or if we are reliving a history of false promises and words once again.”

Petition to amend MOA

In May 2024, Warm Springs filed a petition with ODFW, requesting that the agency repeal or amend the historic memorandum of agreement.

Warm Springs stated the reasons for its request were because the MOA “creates conflict” with the terms of the Warm Springs Tribe’s 1855 treaty and also due to what it asserted was a “legal error” in the decision-making process, as two of the commissioners who voted in favor of the MOA were allegedly acting during expired terms of office.

After Warm Springs filed its petition, the Yakama, Nez Perce and Umatilla all filed petitions to repeal or amend the state’s agreement with Grand Ronde.

All of the petitioners cited the “legal error” of the two commissioners with expired terms voting on the agreement, as well as the alleged violation of treaty rights,

although the legal error portion of the petition was not addressed by the petitioners during the meeting.

“Under Oregon law, the maximum length of a commissioner’s term is four years, but commissioners are authorized to hold their office until their successor is elected and qualified. Action by a commission with holdover members is not invalid,” an ODFW staff memo stated.

The ODFW Commission initially had 90 days from when it received the petition to either accept or deny it. However, it expanded that deadline by nearly a year in order to allow for the petitioning Tribes to meet with Grand Ronde to discuss the MOA. After three meetings, the Tribes were unable to reach an agreement.

Tribal Council reacts to decision

During its Tuesday, July 15, Legislative Action Committee meeting, several Tribal Council members expressed their disappointment regarding the way Friday’s commission meeting had gone.

“I don’t know what to say,” Mercier said. “It was awfully hard to sit there and watch years of work just disappear. So, we’ll look at what our next steps are. It was very, very disappointing...But we’ll figure out a way forward like we always do.”

Harvey said it was “kind of shocking,” that the commission “didn’t know what the boundaries are on their authority.”

“Why they even allowed two Tribes from other states to petition on an Oregon issue kind of boggles my mind,” she said. “I was a commissioner for 10 years and we always had to look at the federal laws and the state laws. We knew where our authority was and we stayed in that lane.”

Jon A. George said that while it was disappointing, he was very grateful to everyone who showed up to the hearing.

“There was great support last Friday,” he said. “You know, all of our staff and hunters and fishers. It was hard to get to that and travel back (the same day) to do other things, too.”

Kathleen George called the decision, “incredibly disappointing.”

“It was interesting to see the division among the ODFW commissioners,” she said. “The two who supported our agreement were really speaking of the relevant issues, that the MOA has a five-year time frame and we’re already two years into it and there’s an (appropriate) time to look at it.”

She reminded Tribal members that the current MOA will stay in place until it is replaced by something else.

“So, while we’re really disappointed, I really want all of our hunters and fishers to know that there is no short-term change to the way, or the areas, in which we’re going and hunt and fish in the upcoming year,” she said.

To watch the commission hearing in its entirety, visit <https://www.youtube.com/watch?v=AeqnXra75fw&t=11s> ■