

MEMORANDUM OF AGREEMENT
between
THE CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION
and
THE STATE OF OREGON, PARKS AND RECREATION DEPARTMENT
for
PROTECTION OF NATIVE INDIAN BURIAL SITES IN CERTAIN STATE PARK
LANDS

Preamble

WHEREAS, the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) is a sovereign government and federally recognized Indian Tribe dedicated to the preservation and protection of its Treaty rights and cultural heritage both within the boundaries of the Umatilla Indian Reservation and within the CTUIR's ceded lands and traditional use areas; and

WHEREAS, the CTUIR, in the Treaty of 1855, reserved rights and interests in ceded lands presently included in state parks; and

WHEREAS the CTUIR and the State of Oregon recognize that burial sites and cultural locations are invaluable and critical to the preservation of CTUIR Treaty rights, cultural heritage and pursuit of traditional ways of life for past, present and future generations; and

WHEREAS, the State of Oregon recognizes the importance to Indian Tribes, specifically the CTUIR, of protecting the burial sites containing Indian remains and their need to re-bury discovered or disturbed remains within their prehistorical and historical aboriginal homelands; and

WHEREAS, the CTUIR confirmed it's governing policy of protecting burial sites and repatriating discovered or disturbed remains and funerary objects to there prehistorical and historical aboriginal homelands in CTUIR Resolution 94-51;

WHEREAS, the State of Oregon has enacted several statutes to protect the proper disposition of human remains for the protection of the burial sites and human remains in Oregon (ORS 166.085) and of Indian Graves through the Oregon Indian Graves and Protected Objects Act and related laws (ORS 97.740-760, 358.905, 358.940); and

WHEREAS, Governor Kitzhaber issued Executive Order Number 96-30 recognizing the importance of Government-to-Government relations between the Oregon Tribes and the State, and authorizing cooperative agreements with Indian tribal governments as provided for in ORS 190.110;

NOW, THEREFORE, Oregon Parks and Recreation Department (OPRD) and or their successor, represented by the Director and the CTUIR, represented by the Chair of the Board of Trustees, enter into the following Memorandum of Agreement (MOA).

ARTICLE I. Definitions

“CTUIR” means the Confederated Tribes of the Umatilla Indian Reservation.

“Burial” as defined in ORS 358.905, means any natural or prepared physical location whether originally below, on or above the surface of the earth, into which, as a part of a death rite or death ceremony of a culture, human remains were deposited.

“Funerary objects” as defined in ORS 358.905, means any artifacts or objects that, as a part of a death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later.

“Human remains” as defined in ORS 358.905, means the physical remains of a human body, including but not limited to, bones, teeth, hair, ashes or mummified or otherwise preserved soft tissue of an individual.

“Object of cultural patrimony” as defined in ORS 358.905, Means an object having ongoing historical, traditional or cultural importance central to the native Indian group or culture itself rather than property owned by an individual native Indian, and which, therefore, cannot be alienated, appropriated or conveyed by an individual regardless of whether or not the individual is a member of the Indian tribe. The object shall have been considered inalienable by the native Indian group at the time the object was separated from such group.

“OPRD” means the Oregon Parks and Recreation Department.

“Sacred Object” as defined in ORS 358.905, means an archaeological object or other object that: is demonstrably revered by any ethnic group, religious group or Indian tribe as holy; is used in connection with the religious or spiritual service or worship of a deity or spirit power; or was or is needed by traditional native Indian religious leaders for the practice of traditional native Indian religion.

“State park lands” means lands owned by OPRD and used for park purposes within the CTUIR reservation or ceded lands or traditional use areas of the CTUIR.

ARTICLE II. Protection of Native Indian Burial Sites

The OPRD agrees to protect native Indian burial and reburial sites on state park lands according to ORS 97.745 and 166.085. The OPRD agrees to leave each burial site free from disturbance from the public, projects and other intrusions. The CTUIR agrees to work with the State Historic Preservation Office to designate the necessary protections of each burial site before any such site is established.

When feasible, the state agrees to make certain state park lands available for reburial when it is determined by the OPRD and the CTUIR that those lands are appropriate for reburial and land-use is not inconsistent with burial protection. Additionally, the OPRD agrees to protect the confidentiality of Indian burial sites on state park lands consistent with ORS 192.501 (11).

The OPRD agrees to continue to allow access to site forms and documentation on archaeological and cultural resources for information within the CTUIR reservation, ceded lands and traditional use areas for the purpose of this agreement and to assist in cultural resources management in general.

Upon approval by the Cultural Resources Committee, the CTUIR agrees to share relevant data as requested by OPRD.

ARTICLE III. Notice and Cooperation

The OPRD agrees to formally consult in good faith with the CTUIR and provide at least 60 business days advanced written notice to both the CTUIR and the State Historic Preservation Office before it undertakes or allows any activity within a protected native Indian burial site covered by this agreement that has potential to physically disturb the site or negatively affect its cultural or religious significance to the CTUIR. The CTUIR agrees to respond in writing to any such OPRD notice within 30 business days of receipt of notice. In the case of unforeseen emergencies or acts of nature, the OPRD shall give notice within 48 hours by the most efficient means possible.

The CTUIR and OPRD agree to regular meetings to occur no less than once a year for the purpose of reviewing this agreement and the performance of the OPRD and CTUIR under this agreement and to update any changes in persons designated as points of contact.

The OPRD agrees to coordinate with its State Historic Preservation Officer on any matters covered by this agreement.

The OPRD and CTUIR agree to use the following points of contact:

A. Oregon State Parks and Recreation

- i. Policy Contact: Correspondence concerning policy matters should be directed to

Director, Parks and Recreation Department

U.S. Mail:
1115 Commercial St NE
Salem OR 97301-1002

Next Day Delivery:
Same

Office: 503-378-4168
Fax: 503-378-8936

- ii. Technical Contact: Correspondence concerning technical matters should be directed to:

Oregon State Historic Preservation Officer
Parks and Recreation Department

U.S. Mail:
1115 Commercial St NE
Salem OR 97301-1002

Next Day Delivery:
Same

Office: 503-378-4168
Fax: 503-378-8936

B. The CTUIR

- i. Policy Contact: Correspondence concerning policy matters should be directed to:

Chair of the Board of Trustees AND Chair, Cultural
Confederated Tribes of the Umatilla Resources Comm.
Indian Reservation

U.S. Mail:
PO Box 638
Pendleton OR 97801

Next Day Delivery:
73293 Confederated Way
Pendleton OR 97801

Office: 541-276-3165
Fax: 541-276-3095

- ii. Technical Contact: Correspondence concerning technical matters should be directed to:

Manager, Cultural Resources Protection Program
Department of Natural Resources
Confederated Tribes of the Umatilla
Indian Reservation

U.S. Mail:
PO Box 638
Pendleton OR 97801

Next Day Delivery:
73293 Confederated Way
Pendleton OR 97801

Office: 541-276-3629
Fax: 541-276-1966

ARTICLE IV. Terms and Conditions

Nothing in this Agreement limits or waives any of the sovereignty, rights, responsibilities, jurisdiction or authority of either party.

This agreement may be terminated by either party upon 30 days written notice.

ARTICLE V. Responsible Representatives

The representative for the State of Oregon, Oregon Parks and Recreation Department responsible for these matters shall be the Director of the Department.

The Government to Government representative for the CTUIR is the Chair of the Board of Trustees, or his designee. The Cultural Resource Committee and the Cultural Resources Protection Program will be responsible for facilitating reburials and communication.

This agreement becomes effective on the date of the latest signature below.

Gary Burke
CONFEDERATED TRIBES OF THE
UMATILLA INDIAN RESERVATION

Date

Michael Carrier
THE STATE OF OREGON,
OREGON PARKS AND RECREATION DEPT.

Date

Approved by the State Parks and Recreation
Commission on: _____
Date