

State and Federal Laws Relating to the Management of Archaeological, Cultural, and Historic Sites

And

Working With Tribes to Streamline the Cultural Review Process



**COUNCIL
ON FOREST
ENGINEERING**

Presented to:

Western Region COFE Seminar

January 14, 2016

Presented By:

Jason Robison, Natural Resources Director

Jessie Plueard, Culture Program Manager, THPO



Presentation Outline

- I. Disclaimers
- II. Cultural Resources
- III. Historic Properties and Archaeological Sites
- IV. Importance of Cultural Resources and Historic Properties
- V. Federal Cultural Resource Laws
- VI. Other laws relating to Cultural Resources
- VII. State Cultural Resource Laws
- VIII. Tribal Authorities
- IX. Tribal Involvement
- X. How to build a Relationships with Tribes
- XI. Things to Know

Disclaimers

- This presentation will focus specifically on Oregon
- This presentation doesn't reflect the views and or opinions of other Oregon Tribes and/or the State Historic Preservation Office (SHPO)
- Tribes cannot circumvent SHPO authority
- Tribes don't supersede Federal or State Cultural Resource/Historic Preservation Laws

Part One

Cultural Resources

- Definitions
- Examples
- Federal and State laws
- Tribal Authorities



Cultural Resources

- Cultural Resource - Any human created or natural part of the environment that has cultural value.
 - Features and artifacts
 - Habitation sites
 - Rock art sites
 - Graves and human remains
 - Spiritual sites, practices, and beliefs
 - Traditional gathering, fishing and hunting areas
 - Natural resources and landscapes
 - Historic sites



Historic Properties and Archaeological Sites

- Historic Property - any prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register of Historic Places, including artifacts, records, and material remains relating to the district, site, building, structure, or object.
- Archaeological Site – accumulation of ten or more prehistoric or historic artifacts or the presence of one or more features, which alone or in combination define areas of human activity and/or events.



Importance of Cultural Resources and Historic Properties



Congress declares that—

- (1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;
- (2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;
- (3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;
- (4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans

Federal Cultural Resource Laws

- **Antiquities Act of 1906** - established protection of any “historic ruin or monument, or any object of antiquity situated on government lands...” required permits for their removal. The Secretary of the Interior was charged with this responsibility
- **National Historic Preservation Act (NHPA) of 1966** - authorizes the Secretary of the Interior to expand and maintain a National Register, establishes and defines the responsibilities of the State and Tribal Historic Preservation Officers and the Advisory Council of Historic Preservation (ACHP), and pledges federal assistance to preservation efforts of state and local groups.
- **Section 106 of NHPA** - requires federal agencies to take into account the effects of their activities and programs on historic properties . When a federal agency funds, licenses, or permits an activity that may affect cultural resources, the agency must consult with the State Historic Preservation Office (SHPO) in cooperation with the ACHP in Washington, D.C. to comply with Section 106 of the National Historic Preservation Act.



Federal Cultural Resource Laws (Continued)

- **National Environmental Policy Act (NEPA) of 1969** - requires federal agencies to prepare environmental impact statements for each federal action having an effect on the environment, and part of the legislation includes that "it is the continuing responsibility of the federal government to use all practicable means... to preserve important historic, cultural, and natural aspects of our national heritage."



Federal Cultural Resource Laws (Continued)



- **Archaeological Resources Protection Act (ARPA) of 1979** - established the permit process on public and Native American lands; provided criminal and civil penalties for looting or damaging sites that are 100 years or older on public and tribal lands.
- **Native American Graves Protection and Repatriation Act (NAGPRA) of 1990** - requires the return of Native American remains and cultural objects by federal agencies and museums to Native American groups; governs excavations and inadvertent discovery of remains and cultural items on federal and tribal lands.

Other laws relating to Cultural Resources



- **American Indian Religious Freedom Act (AIRFA) of 1978** – protects and preserves for American Indians their inherent right of freedom to believe, express and exercise the traditional religions of the American Indians, including but not limited to access to sites, use and possession of sacred objects and the freedom to worship through ceremonials and traditional rites.
- **Indian Sacred Sites (Executive Order No. 13007) of 1996** – this law, in order to protect and preserve Indian religious practices, orders agencies managing Federal lands to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and avoid adversely affecting the physical integrity of such sacred sites.

State Cultural Resource Laws

- **Archaeological Objects and Sites (ORS 358.905 – 358.955) 1935** – law provides definitions of archaeological sites, 75 years of age or older, significance; prohibits the sale and exchange of cultural items, or damage to archaeological sites on public and private lands. Items of cultural patrimony or associated with human remains are protected everywhere, unless the activity is authorized by an archaeological excavation permit.
- **Indian Graves and Protected Objects (ORS 97.740 – 97.760) 1977**– protects all Native American cairns and graves and associated cultural items.



State Cultural Resource Laws (Continued)

- **Scenic Waterways (ORS 390.805 – 390.925)** – establishes state policy that protects historic and archaeological sites that are located adjacent to designated scenic waterways from destruction due to the building of dams, construction, mining.
- **State Historic Preservation Plan (ORS 358.605 – 358.622)** – established the State Historic Preservation Office as the administrative agency designated to carry out the state's policies on the identification, preservation and management of culturally significant structures, sites and objects within the state. Among other tasks, this plan authorized the state to conduct a comprehensive, statewide survey to identify all properties that are potentially significant to Oregon history and to maintain a statewide inventory of historic properties.



Other State Cultural Resource Authorities

- **State Land Use Planning Law- Goal 5 (OAR 660-023-0200)** - encourages local governments and state agencies to develop and maintain inventories of local historical resources and adopt programs that will protect historic resources for present and future generations. Goal 5 also encourages local governments to adopt a historic preservation plan and complimentary ordinances.



Oregon Forest Protection Act and Cultural Resources

- Submit written plan
- ODF review
- SHPO consultation
- Tribal coordination



Tribal Authorities

- Tribal Historic Preservation Office – Section 101(d)(2) NHPA
 - Assumption of State Historic Preservation Office duties on reservation lands
 - Survey and Inventory
 - Section 106 consultation
 - Preservation Planning
 - Public Education
- Off-Reservation Roles and Responsibilities
 - Federal Process
 - State Process



Part Two

Tribal Involvement

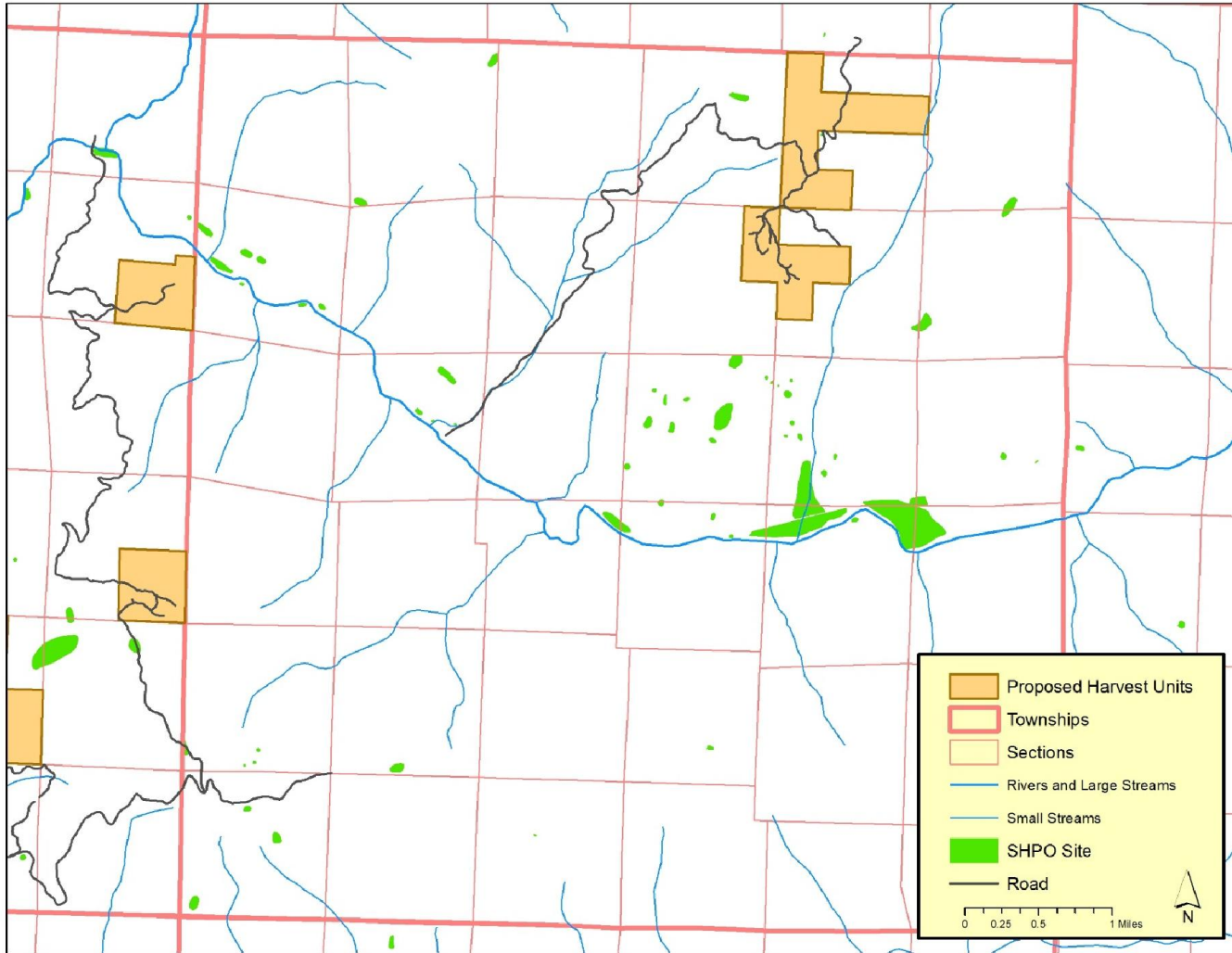
- Tribal Capacity
- Streamlining The Process
- Building Relationships With Tribes
- Additional Things To Know



Tribal Involvement

- Natural Resource Capacity
- Cultural Resource and Historic Preservation Expertise
- Traditional Cultural Knowledge
- Project Reviews
 - Archeological Site Assessments
 - Surveys
 - GIS/Mapping
 - Site Monitoring (Road and Landing Construction)





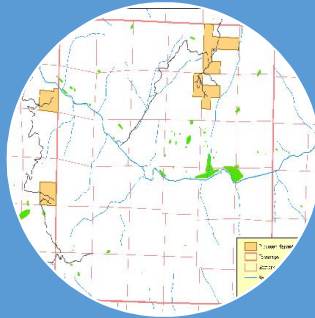
Tribal Involvement (Continued)

- Project Clearance Letters
- Streamlined or Expedited Permit Review
 - Tribal Review
 - SHPO Relationship
- Best Management Practices
- Inadvertent Discovery Plans
 - Protocols for coordination in the event of inadvertent discovery
 - When to stop work
 - Key contacts (Project Manager, SHPO, State Police, Tribes)
 - Proceeding with an activity
- Staff Training
 - Identification of Native American and Euro-American Artifacts
 - Established protocols and procedures





Contact Tribe



Conduct Project Review



Surveys/BMPS



Implementation and Monitoring



How to build a Relationships with Tribes

- Research the Tribe or Tribes in your area
- Make contact with the Cultural Resource Specialists or Tribal Historic Preservation Officer
- Develop Local Operating Agreements (LOAs), MOAs, and/or Service Agreements
- Utilize Tribal staff to provide cultural education to employees



Things to Know

- Call before starting any ground disturbing activities.
- Make sure to work with the appropriate State agency and/or Tribal organization on written plans of operations.
- Not all known archeological sites have been found and/or are registered.
- Never remove cultural material or potential cultural material from an area.
- Often times more than one Tribe and/or Agency is interested in the proposed action.

Things to Know (Continued)

Most State Historic Preservation Offices have Information on:

- Tribal Contacts
- State Laws pertaining to cultural resources
- Frequently Asked Questions
- List of professional Archeological/Historic Preservation contractors

<http://www.oregon.gov/oprd/HCD/SHPO/Pages/index.aspx>

Oregon Parks & Recreation Department: Oregon Heritage: State Historic Preservation Office

[Department](#)

[About Us](#)

[Contact Us](#)

[Home](#)

Program Areas

[Archaeological Services](#)

[Heritage Commission](#)

[Historic Cemeteries](#)

[Historic Trails](#)

[Main Street](#)

[State Historic
Preservation Office](#)

[Financial Assistance](#)

[Grants](#)

[Scholarships](#)

[Historic Places](#)

[Historic Sites Database](#)

Oregon State Historic Preservation Office



The Oregon State Historic Preservation Office (SHPO) was established in 1967 to manage and administer programs for the protection of the state's historic and cultural resources. When these resources disappear communities can lose tangible and educational assets that contribute directly to Oregon's heritage, and also opportunities for local economic development. SHPO staff is here to assist city planners and other officials, property owners, and preservation groups to find forward-thinking solutions to protect and preserve our past.

[SHPO Services & Staff](#)

[Events Calendar](#)

[Connect With Us](#)

[Contractor Directory](#)

SHPO Programs

Archaeological Services

Protects Oregon's archaeological sites through project reviews and provides education on cultural heritage issues.

[Archaeological Services](#)



Certified Local Governments

A federal program administered by the SHPO to promote historic preservation at the local level.

[Certified Local Governments](#)



Environmental Compliance

Assists federal agencies and those receiving federal funds to comply with Section 106, and local governments in Oregon in



SHPO Programs

Preserving Oregon Grant

Matching grant for rehabilitation work that supports the preservation of historic resources listed in the National Register of Historic Places or for significant work toward identifying, preserving, and interpreting archaeological sites.

[Preserving Oregon Grant](#)



Survey & Inventory

Statewide survey and inventory of historic and archaeological resources to support citizens and government agencies in identifying and protecting Oregon's cultural and heritage resources.

[Survey & Inventory](#)



Summary

- Cultural Resource - Any natural or human created part of the environment that has cultural value.
- Cultural Resources and Historic Properties are important for many reasons.
- There are numerous federal and state laws, statutes, executive orders, and other authorities that dictate the treatment and management of cultural resources. Its important to be aware of these, and to understand the processes/procedures established within your State.
- Tribes have the ability to assist state, federal, and private landowners in complying with cultural resource management laws and statutes.
- Tribes can help streamline the approval process.
- Tribes can provide training and other services to assist land managers.



Contact Information

Jason Robison

Natural Resource Director

Cow Creek Band of Umpqua Tribe of
Indians

2371 NE Stephens St. Suite 100

Roseburg, OR 97470

541-677-5516

Jrobison@cowcreek.com

Jessie Plueard

Culture Program Manager, THPO

Cow Creek Band of Umpqua Tribe of
Indians

2371 NE Stephens St. Suite 100

Roseburg, OR 97470

541-677-5577

Jplueard@cowcreek.com

Questions

