



June 9, 2019

Jill Rolfe, Director  
Coos County Planning Department  
225 N Adams St  
Coquille, Oregon 97423

**SENT VIA EMAIL ([planning@co.coos.or.us](mailto:planning@co.coos.or.us))**

**RE: Comments on Coos County Remand File Number REM-19-001**

Dear Ms. Rolfe:

The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians (“Tribe”) respectfully submits these comments on Coos County Remand File Number REM-19-001.

In its April 5, 2019 Narrative submitted in regards to this proceeding, the applicant has proposed that the Memorandum of Agreement (“MOA”) and Cultural Resource Protection Agreement (“CRPA”) be incorporated as a condition of approval of this Proposal to satisfy requirements of CBEMP Policy # 18. Narrative at 28. This recommendation is supported by the Planning Director. Staff Report at 6. On this point, the Tribe strongly agrees.

As stated by the Land Use Board of Appeals (“LUBA”), “CBEMP Policy 18 provides in relevant part that a development proposal involving a cultural, archeological or historical site shall include a site plan application showing all areas proposed for excavation, clearing, and construction, and submit that site plan to the Tribes for a 30-day review period. The county must then conduct a review of the site plan and approve or deny based in part on whether the Tribes and the applicant have agreed on “appropriate measures” to protect cultural, archeological or historical resources.” *Oregon Shores v. Coos County*, LUBA No. 2016-095 at 16 (Final Decision and Order, Nov. 27, 2017). Only if the Tribe and an applicant are unable to reach agreement will a hearing be conducted to “determine by preponderance of evidence whether the development project may be allowed to proceed, subject to any modifications deemed necessary by the governing body to protect the cultural, historical, and archaeological values of the site.” CBEMP Policy # 18.

While the applicant supports adoption of the MOA and CRPA as a condition of approval to address CBEMP Policy # 18 requirement, the applicant suggests that there are no cultural resources within the project area pointing only to one site identified in the County inventory. Narrative at 29. However, there is substantial evidence submitted with this letter to support the presence of cultural resource and archaeological sites in the project area.

CBEMP Policy # 18 broadly requires the protection of historic, archaeological, and cultural resource sites – Policy # 18 does not define these terms. An archaeological site is defined by the National Park Service (“NPS”) as “the location of a significant event, prehistoric or historic occupation or activity, or

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Exhibit: 1  
Date: 6/10/19



building or structure, where the location itself possesses historic, cultural, or archaeological value.”<sup>1</sup> An archaeological site has horizontal and vertical dimensions that are complex, containing diverse elements or components, each of which may represent a different activity. All site components can share relationships to one another and all components, including buildings and landscapes, need to be studied in order to understand the way of life at that location. Newer archaeological practices (distributional archaeology) try to look at the landscape by looking at surface material to understand human activities and interactions between humans and their environment around village sites rather than just the location of the village site itself as a single element. A cultural site as defined by the NPS includes “a property based on its associations with the cultural practices, traditions, beliefs, life ways, arts, crafts, or social institutions of a living community.”<sup>2</sup>

Attachment A, an excerpt of the nomination application for the Proposed *Q’alya ta Kukwis shichdii me* (Jordan Cove and the Bay of the Coos People) Traditional Cultural Property Historic District describes cultural resource sites throughout the Bay that will be impacted by this proposal. These are sites that are included for designation as a Traditional Cultural Property (“TCP”) currently pending with the National Park Service.<sup>3</sup>

As Attachment A indicates, the *Q’alya ta Kukwis shichdii me* TCP is an area of significance and continued use by the Coos people and is tied to their cultural identity. There are village sites, cultural landscape features, and natural landscape features that includes rock features that have associated Coos myth tales as discussed in the TCP. The TCP also discusses view sheds and in general the aesthetic quality of the bay, as referenced in the Final Coos Bay Channel Deepening Environmental Impact Statement Feasibility Report (1994) on pg. 3-69, “The aesthetic character of Coos Bay is a mixture of the natural and the human in all aspects of sight, sound, smell, and character. . . . Other areas, such as the lower bay, are dominated by natural amenities, particularly by views of the bay and the north spit. This part of the bay also contains the South Slough Sanctuary, a natural preserve where one can be totally absorbed in surroundings of water, forest, and wildlife.” There will be both direct and indirect impacts as well as cumulative impacts to these resources associated with this project.

Moreover, the applicant admits that at least one inventoried site is located within the project area. The County’s inventory referred to by the applicant is based on a very outdated 2002 archaeological inventory. A significant number of sites not on the inventoried list documented with the State Historic Preservation Office (“SHPO”) are within the project area (*see* Exhibit B<sup>4</sup>) and others have been identified by the Federal Energy Commission (“FERC”) in the Cultural Resource Appendix to its Draft Environmental Impact Statement (*see* Attachment C).

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<sup>1</sup> See [https://www.nps.gov/nr/publications/bulletins/nrb15/nrb15\\_4.htm](https://www.nps.gov/nr/publications/bulletins/nrb15/nrb15_4.htm).

<sup>2</sup> See <https://www.nps.gov/history/tribes/Documents/TCP.pdf>.

<sup>3</sup> Traditional Cultural Properties as defined by the NPS as “a property based on its associations with the cultural practices, traditions, beliefs, life ways, arts, crafts, or social institutions of a living community. TCPs are rooted in a traditional community’s history and are important in maintaining the continuity cultural identity of the community.” See <https://www.nps.gov/history/tribes/Documents/TCP.pdf>. A map of the proposed TCP boundary is available from Coos County Planning at <http://www.arcgis.com/home/webmap/viewer.html?webmap=1be7dbc77f8745d78fc5f3e8e85fc05e&extent=-124.8585,42.6536,-122.6914,43.6326>.

<sup>4</sup> Attachment B contains specific site information and is therefore not subject to public disclosure. A copy has been shared with the applicant.

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There is nothing in CBEMP Policy # 18 that limits its application to sites on the dated County inventory. Indeed, Section I generally describes its application to “all development proposals involving a cultural, archaeological, or historic site.” Moreover, CBEMP Policy # 18 specifically anticipates situations where sites may be discovered later – “If a previously unknown or unrecorded archaeological site is encountered in the development process, the above measures shall still apply.”

Here, the MOA and CRPA represent “appropriate measures” to protect both cultural and archaeological resources as required by the CBEMP Policy # 18. Impacts to these sites can be mitigated by the adoption of the MOA and CRPA as a condition of approval.

**In order to protect these known sites, the Tribe requests that the County adopt the MOA and CRPA, as agreed by the Tribe and the applicant, as a condition of approval.**

Thanks for consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'RIS', with a long horizontal flourish extending to the right.

Rick Eichstaedt  
Attorney for the Confederated Tribes of Coos,  
Lower Umpqua and Siuslaw Indians