

The Role of the State Historic Preservation Office in Federal and State Cultural Resource Protection



Nature
HISTORY
Discovery

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What is the State Historic Preservation Office (SHPO)?

- Established after the passage of the National Historic Preservation Act (NHPA) in 1966 to assist in the review of potential effects from federally assisted projects.
- The State Historic Preservation Office (SHPO) administers the national historic preservation program at the State level, maintains data on historic properties, and consults with federal and state agencies during project development and when constructing a Memorandum of Agreement .
- SHPO is directed by the State Historic Preservation Officer, who is designated by the governor of their respective State or territory.



“The State historic preservation officer (SHPO) reflects the interests of the State and its citizens in the preservation of their cultural heritage. In accordance with section 101(b)(3) of the act [36CFR800], the SHPO advises and assists Federal agencies in carrying out their section 106 responsibilities and cooperates with such agencies , local governments and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development.”



Major SHPO Programs

SHPO

National Register
Program

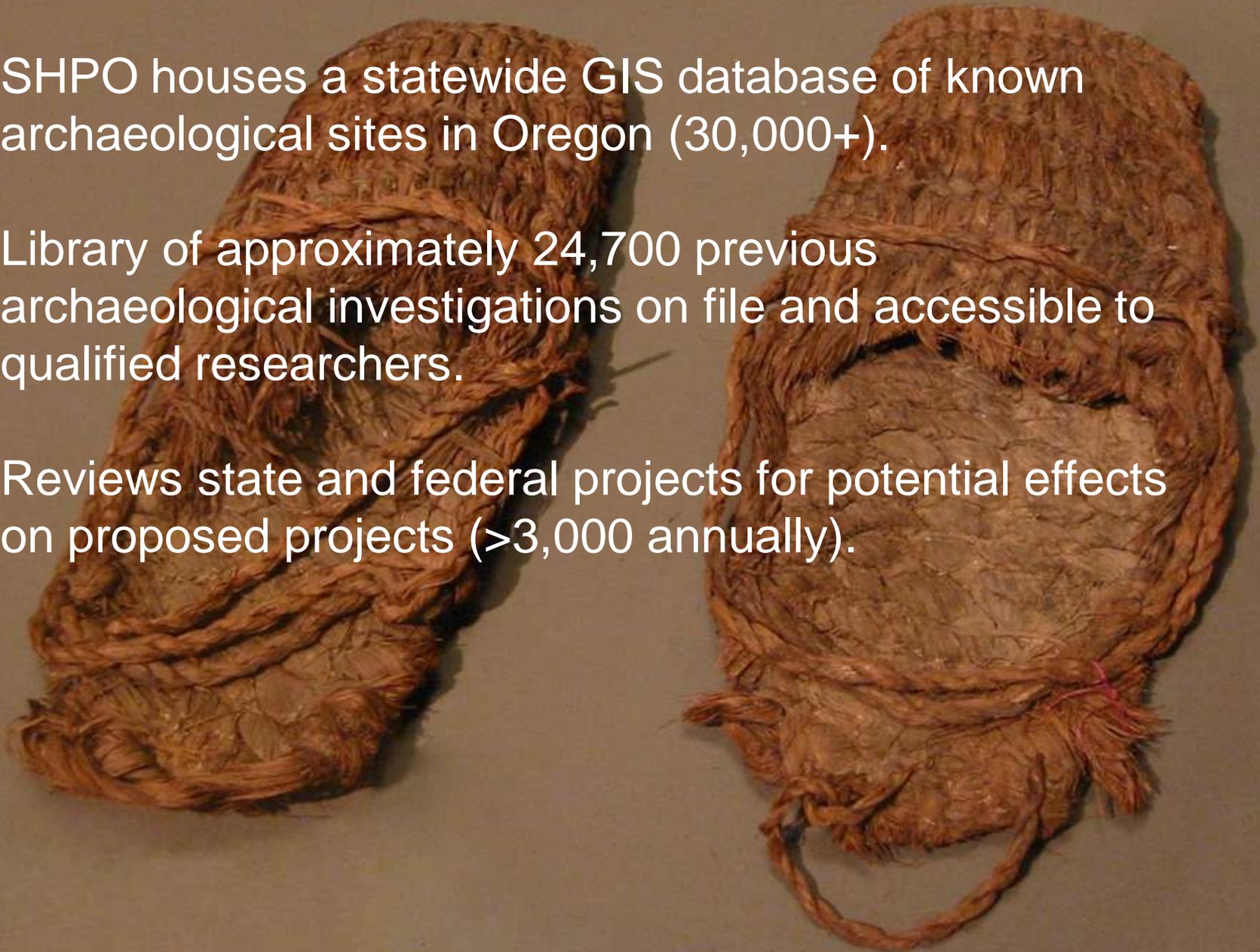
Section 106
Review & Compliance
Program

Archaeological
Services

SHPO houses a statewide GIS database of known archaeological sites in Oregon (30,000+).

Library of approximately 24,700 previous archaeological investigations on file and accessible to qualified researchers.

Reviews state and federal projects for potential effects on proposed projects (>3,000 annually).



Federal and State Laws



NOTICE



Cultural resources in the vicinity of this notice are fragile and irreplaceable. The Archaeological Resources Protection Act of 1979 and the Antiquities Act of 1906 protect them for the benefit of all Americans.

ENJOY BUT DO NOT DESTROY YOUR AMERICAN HERITAGE

Any person who, without official permission, injures, destroys, excavates, appropriates or removes any historic or prehistoric ruin, artifact, object of antiquity, or archaeological resource on the public lands of the United States is subject to arrest and penalty of law.

Permits to excavate sites or remove artifacts can be issued only to qualified persons for the purpose of furthering knowledge in the public interest.

For information contact the Bureau of Land Management office at:

(541)756-0100

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

S-53-1
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- Federal Laws- applicable on federal and Tribal lands as well as any project with a federal nexus (i.e., federal permit, federal funding, federal agency involvement).
- State Laws- applicable on all non-federal public (e.g., city, county, state) and private lands.

Primary Federal Cultural Resources Regulations

- Section 106 of the National Historic Preservation Act (NHPA) of 1966, amended through 2000
- National Environment Policy Act of 1969 (NEPA)
- Archeological Resources Protection Act (ARPA)
- Native American Graves Protection and Repatriation Act of 1990 (NAGPRA)
- Abandoned Shipwreck Act (43 USC Part 39, 1988)

Section 106 of the NHPA



- Under Section 106 the SHPO participates in the review of all federal undertakings that have the potential to impact historic or archaeological resources listed in, or eligible for listing in, the National Register of Historic Places (NRHP).
- Tribal consultation required.
- Because almost half of the state is in federal ownership, Oregon's program is one of the most active in the U.S.

SHPO Review and Compliance Program

- SHPO works with federal agencies to assist them in complying with Section 106 of the National Historic Preservation Act of 1966. This program assists in reviewing federal undertakings, both archaeological and above-ground, for their impact upon cultural resources.
- Agencies consult with federally recognized Tribes regarding impacts to properties of religious and cultural significance.
- The R&C program assists clients to identify and evaluate resources, assess effects upon those resources and look for productive ways to avoid or mitigate adverse project effects.



Properties of Religious and Cultural Significance to an Indian Tribe



Oregon State Cultural Resources Regulations

- Indian Graves and Protected Objects (ORS 97.740- 97.760)
- Archaeological Objects and Sites (ORS 358.905- 358.961)
- Permit and Conditions for Archaeological Excavation (ORS 390.235)
- Administrative Rules for Applying for an Archaeological Permit to Excavate a Site (OAR 736-051-0080 to -0090)



Indian Graves and Protected Objects (ORS 97.740-97.760)

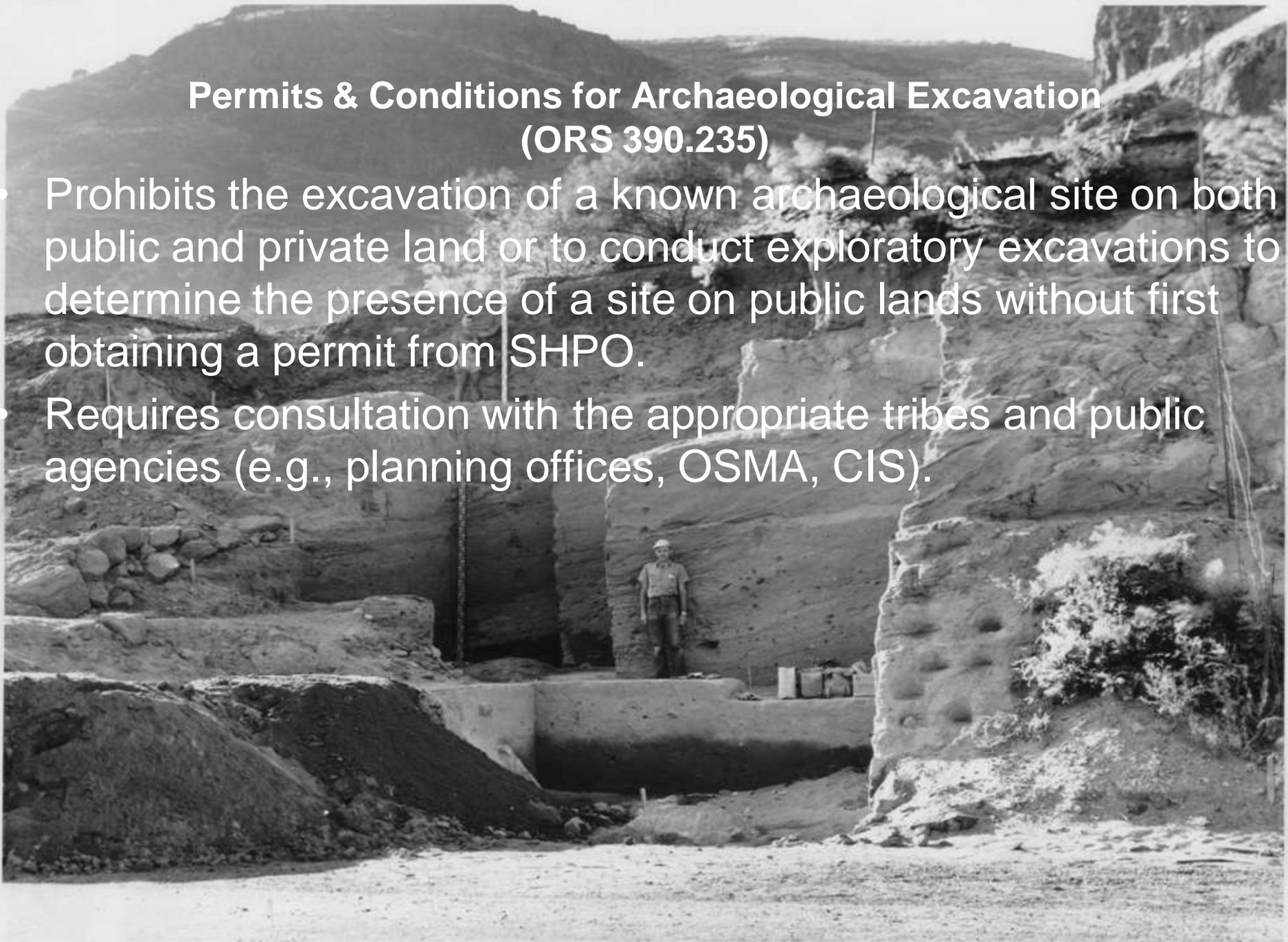
- Protects Native American cairns, graves and associated funerary objects, sacred objects, or objects of cultural patrimony.
- Disturbance of Native American human remains or associated objects is considered a Class C Felony. Fines up to \$10,000 can be issued.
- A qualified archaeologist has to obtain an Archaeological Permit from SHPO before a site can be disturbed.
- Applicable on both private and public lands.

Archaeological Objects and Sites (ORS 358.905- 358.961)

- Provides definitions of archaeological sites (**75 yrs or older**), sites of archaeological significance, and cultural patrimony.
- Prohibits the sale, purchase, trade, barter or exchange of any archaeological objects.
- Prohibits the excavation, injury, destruction, or alteration of an archaeological site or removal of artifacts on public or private land in Oregon unless it is authorized by an Archaeological Permit.
- Applicable on both private (1935) and public (1993) lands.
- Violation of law is a Class B Misdemeanor.

Permits & Conditions for Archaeological Excavation (ORS 390.235)

- Prohibits the excavation of a known archaeological site on both public and private land or to conduct exploratory excavations to determine the presence of a site on public lands without first obtaining a permit from SHPO.
- Requires consultation with the appropriate tribes and public agencies (e.g., planning offices, OSMA, CIS).



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Administrative Rules for Permits & Conditions for Excavation on Public and Private Lands (OAR 736-051-0080 to -0090)

- Outlines the policies and procedures SHPO uses in the issuance of an Archaeological Permit.
- Establishes the policies and procedures for curation of archaeological objects uncovered as a result of excavation under an Archaeological Permit.
- Summarizes the policies and procedures for an Expedited Archaeological Permit (i.e., 48 hours) when the normal 30-day review period would result in extreme hardship or undue risk to public health, life or safety, or an undue threat to the site or burial.

What exactly is an archaeological site?



- An **archaeological site** is defined as ten or more artifacts likely to have been generated by *patterned cultural activity* within a surface area reasonable to that activity;
- or the presence of any *archaeological feature*, with or without associated artifacts;
- Archaeological sites relate to both prehistoric and historic land use.

Some prehistoric site types found in Oregon include:



Shell Midden



Petroglyph



Lithic Scatter



Lithic Flakes or Debitage



Projectile Points or Arrowheads



Stone Tools



Historic site types found in Oregon include:



Wagon Roads



Refuse Scatter



Foundations



Historic Chinese site in downtown Portland

Summary of Federal and Oregon State Cultural Resources Regulations

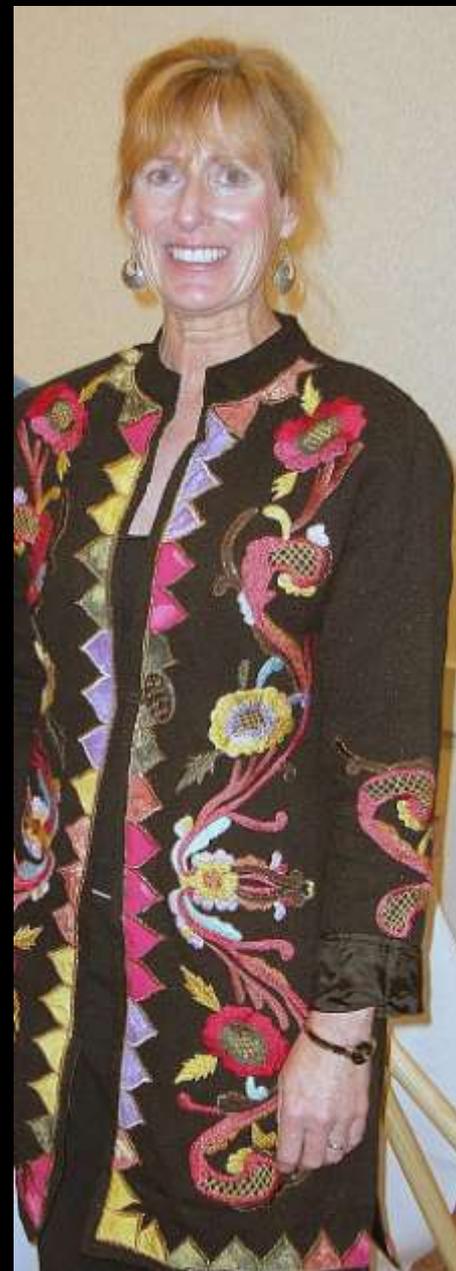
- Oregon law provides protection for archaeological sites on both public and private lands;
- requires a permit to excavate a known site on public or private land or conduct exploratory excavation on public land;
- criminal & civil penalties limited to Class C Felony for Native American burials and Class B Misdemeanor for archaeological sites.
- Federal law provides protection for archaeological sites on federal land;
- requires a permit to excavate on federal land whether exploratory or within a known site;
- criminal and civil penalties are stronger than Oregon state law.

Legislative Commission on Indian Services (CIS)

- CIS is the legislative liaison between the State and local agencies and Tribal governments.
- CIS must advise on matters relating to the preservation and protection of Indian historic and archaeological resources.

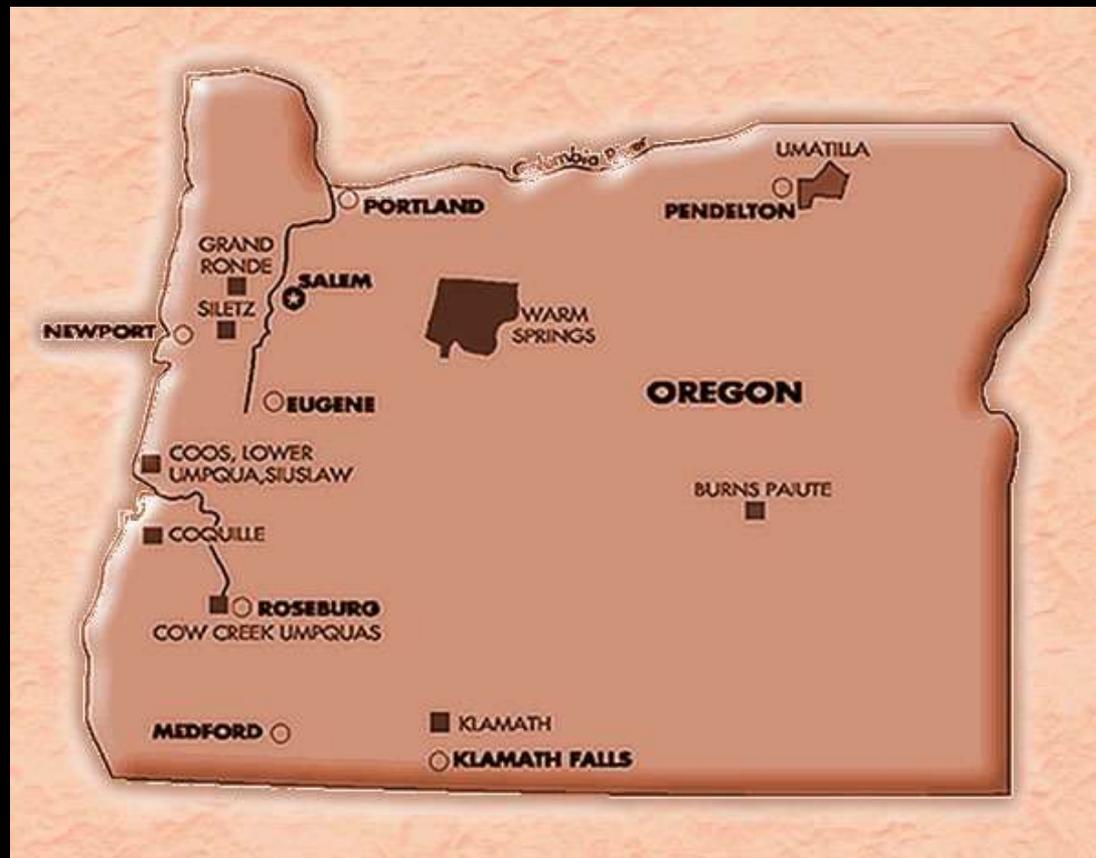
Contact Info: Karen Quigley, 503-986-1067

Website: www.leg.state.or.us/cis



Tribal Consultation with Oregon's Native American Tribes

- Nine federally recognized Tribes in Oregon
- CIS will provide the name of the appropriate Tribes.
- Cultural Resource Contact Person information given by CIS or can be found on SHPO website-



<http://www.oregonheritage.org/OPRD/HCD/ARCH/>



OUR WEBSITE ADDRESS IS.....

<http://www.oregonheritage.org/OPRD/HCD/ARCH/index.shtml>