



Oregon

Kate Brown, Governor

Parks and Recreation Department

State Historic Preservation Office

725 Summer St NE Ste C

Salem, OR 97301-1266

Phone (503) 986-0690

Fax (503) 986-0793

www.oregonheritage.org

May 23, 2019

Joy Beasley

Acting Associate Director, Cultural Resources, Partnerships, and Science and

Keeper of the National Register of Historic Places

National Park Service

1849 C St. NW, Mail Stop 7228

Washington, D.C. 20240



RE: National Register Nomination for the Q'alya ta Kukwis shichdii me Traditional Cultural
Property Historic District, Coos Co., OR

Dear Ms. Beasley:

At the recommendation of the Oregon State Advisory Committee on Historic Preservation (SACHP), I respectfully request a Determination of Eligibility for the National Register of Historic Places for the following property:

Q'alya ta Kukwis shichdii me Traditional Cultural Property Historic District
Coos County, Oregon

As of the date of this letter, the Oregon SHPO counts a total of 1001 owners within the proposed district. A total of 696 or 70% of the owners submitted valid objections. It is therefore my determination that, while I find the district eligible and the documentation adequate, the majority of the property owners object to listing the proposed district. The enclosed disk contains the true and correct copy of the nomination document for the property listed above to the National Register of Historic Places. The included memo describes the nomination process and the materials provided in this mailing.

In compliance with a recent state court ruling described in greater detail in the accompanying memo, trusts are not included as property owners on the property owner list, and objections submitted on behalf of trusts are not counted. The Oregon SHPO completed an analysis to determine if counting trusts as owners and any objections received on behalf of trusts would affect the outcome. Our office determined that it did not.

At the request of the nomination proponent, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (CTCLUSI) and in accordance with the Oregon SHPO's understanding of state law, the Oregon SHPO provided redacted copies to all parties involved in the nomination process. Redacted content included the location of archaeological resources, storied sites, and resource gathering areas; information deemed to be culturally-sensitive by the tribe; and content identifying specific tribal informants. In addition to seeking basic physical protection for potentially vulnerable sites, the redactions honor tribal beliefs about place and their concept of historic integrity. Tribal practice and belief require that specific cultural information be kept secret, sometimes even among



groups within a tribe. The Oregon SHPO asserts that broad dissemination of this information thereby harms an essential character-defining feature of the District, its secrecy, by making the information generally known through the nomination process. Finding that risk unacceptable, we took reasonable steps to protect the location of the resources and maintain the historic integrity of the District as described in the accompanying memo. Please see the enclosed letter from Margaret Corvi, Culture and Natural Resource Director, CTCLUSI.

The nominated property includes parcels administered by six federal agencies and two federally-recognized tribes. These include the U.S. Navy; U.S. Army Corps of Engineers; U.S. Coast Guard; U.S. Bureau of Land Management; U.S. Bureau of Indian Affairs, the U.S. Forest Service, the CTCLUSI, and the Coquille Indian Tribe. Included in this mailing is a signed cover sheet from the U.S. Forest Service. A signature sheet is forthcoming from the U.S. Bureau of Land Management, who signed the document, but did not provide it in time for this mailing. The other agencies indicated that they will respond, but have not provided a timeline.

The Oregon SHPO is forwarding this nomination to your agency within the 90 days after the recommendation of the SACHP, as required by the National Register program rules, 36 CFR60.11(e). We ask that the National Park Service allow for the full 45-day consideration period provided by federal program rules.

We appreciate your consideration of this nomination for a Determination of Eligibility. If questions arise, please contact Ian Johnson, Associate Deputy State Historic Preservation Officer at (503) 986-0678 or ian.johnson@oregon.gov.

Sincerely,



Christine Curran
Deputy State Historic Preservation Officer

Encl.



State Historic Preservation Office
725 Summer St. N.E., Suite C
Salem, OR 97301

MEMORANDUM

DATE: May 23, 2019
TO: Joy Beasley, Acting Associate Director, Cultural Resources, Partnerships, and Science and Keeper of the National Register of Historic Places
FROM: Ian Johnson, Associate Deputy State Historic Preservation Officer
RE: Nomination process for the Q'alya ta Kukwis shichdii me Traditional Cultural Property Historic District, Coos Co., Oregon.

The Oregon State Historic Preservation Office (SHPO) submits the enclosed property-owner list and count of notarized objections for the nomination of the proposed Q'alya ta Kukwis shichdii me Traditional Cultural Property Historic District, Coos Co., OR (District). Applying federal and state laws and rules, the Oregon SHPO identified a total of 1001 private property owners with fee-simple title to real property within the nominated District. As of May 23, 2019, our office received 696 notarized objections, or 70% of the total number of owners. It is therefore the determination of the SHPO that the majority of the property owners object to listing the District in the National Register of Historic Places (NRHP).

Counting Owners and Objections

In compliance with a recent state court ruling, and the SHPO's analysis of applicable state law, the total number of property owners on the property owner list does not include trusts, and objections submitted on behalf of trusts are not counted. On April 3, 2019, the Oregon State Court of Appeals found in the Tom Brown v. Parks and Recreation Department case that when we published on our website federal guidance describing trusts as property owners eligible to object to a National Register nomination, we inadvertently created a "rule" within the meaning of the Oregon Administrative Procedures Act (APA); as such, the federal guidance is invalid because "SHPO failed to comply with applicable rulemaking procedures." (See the enclosed Court of Appeals ruling.) Oregon has administrative rules for the NRHP program, but they mirror the federal laws, which do not explicitly indicate trusts as an eligible property owner (only federal guidance does this). The SHPO will need to promulgate a rule to count trusts as owners in the context of the National Register program. Acknowledging the conflict between federal practice and state law, the Oregon SHPO completed an analysis to determine if counting trusts as owners and objections received on behalf of trusts would affect the outcome. Our office determined that it did not. See the attached process memo and excel worksheets that show this analysis.

Following a citizen inquiry regarding the SHPO's understanding that the signature date of the notary and owner must be same for a notarized document to be valid, staff more closely reviewed the 2018 Oregon Notary Public Guide, published by the Oregon Office of the Secretary of State. Staff determined that it was not necessary that signature date of the owner and notary match for a notarized statement to be valid. The provided count of objections includes those documents where there are discrepancies between the notary and owner signature dates in the total count of objections.

It is the Oregon SHPO's determination that while all the scenarios affect the total numbers of owners and/or objections, none would change our finding that there is not owner consent to list the District. Spreadsheet 4, included in this mailing, accounts for counting trusts and notarized documents as described here, and is the official count of owners and objections submitted by our office.

Federal Ownership within the Nominated District

The District includes 16,656 acres. A total of 3,550 acres, or 21%, is administered by federal agencies. The Oregon SHPO took reasonable steps to identify federal agencies administering property within the District. The Coos County property records generally identified the "owner" of properties under federal jurisdiction as "U.S.A." The Oregon SHPO identified the specific agencies by seeking further information from the Coos County Assessor's Office and ordering a title search through a local company, Ticor Title Company of Oregon. Staff also contacted agencies known or suspected to administer property within the district and confirmed their property interest. The nominated federal parcels are administered by U.S. Navy; U.S. Army Corps of Engineers (USACE); U.S. Coast Guard; U.S. Bureau of Land Management (BLM); and the U.S. Forest Service (USFS), with the bulk of the parcels falling under BLM, USFS, and USACE. The U.S. Bureau of Indian Affairs administers trust lands within the District on behalf of the Coquille Indian Tribe and the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (CTCLUSI). Federal Preservation Officer B.J. Howerton delegated his signature authority to each tribe's Tribal Historic Preservation Officer. (See the attached email from Mr. Howerton to Ian Johnson dated March 29, 2019.) Included in this mailing is a signed cover sheet from the USFS and the CTCLUSI. A signature sheet is forthcoming from the BLM, who signed the document, but did not provide it in time for this mailing. The other agencies indicated that they will respond, but have not provided a timeline.

Redactions

At the request of the nomination preparer, the CTCLUSI, and in accordance with the Oregon SHPO's understanding of state law, the Oregon SHPO provided redacted copies to all parties involved in the nomination process. Redacted content included the location of archaeological resources, storied sites, and resource gathering areas; information deemed to be culturally-sensitive by the tribe; and content identifying specific tribal informants. Those requesting un-redacted copies were directed to contact the CTCLUSI. Private and public property owners were encouraged to contact the Oregon SHPO to obtain information specific to their property. Following a closer reading of the federal regulations, 36CFR60.6(x), the Oregon SHPO determined that our office was required to provide un-redacted site information specific to each of the four jurisdictions: Coquille Indian Tribe, Coos County, and the cities of North Bend and Coos Bay. This information will be provided to the jurisdictions. Under state law, these jurisdictions are prohibited from broadly disseminating the information.

Notifications

The SHPO met or exceeded notice requirements for listing a property with 50 or more private owners as described in 36CFR60.6(d). A summary of the office's notification and outreach efforts are provided below:

- **November 1, 2018** – National Register of Historic Places nomination submitted to SHPO by the CTCLUSI for consideration at October 2018 State Advisory Committee on Historic Preservation (SACHP) meeting.
- **December 21, 2018** – Public comment period opens. Notice is published in *The World*, and an agency website is posted. See <http://bit.ly/coostcp>.
- **January 9-10, 2019** – Oregon SHPO attends meetings with public officials for the Coquille Indian Tribe, Coos County, and the cities of North Bend and Coos Bay.
- **January 17-18, 2019** – Oregon SHPO staff host informational meetings at the North Bend Community Center, North Bend, on January 17th and 18th. Postcards notifying owners of the upcoming public meeting are mailed in early January.
- **February 19, 2019** – Oregon SHPO staff attend a public meeting of Coos Bay City Council to answer questions regarding the nomination of the proposed District.
- **February 22, 2019** – The SACHP reviewed the nomination for the District at a public meeting at the Mill Casino, North Bend.
- **April 2019** – Postcards mailed to each owner within the District notifying residents of the outcome of the SACHP meeting and inviting further comment.

The Oregon SHPO will forward to your office any additional correspondence or objections received once a week until the end of the NPS's 45-day consideration period.

The following documents are included on the enclosed disks with the digital National Register of Historic Places form: A copy of the original property-owner list provided to our office by the Coos County Assessor's Office; the property-owner list that SHPO prepared according to 36 CFR 60; objections and letters of support received; scans of all correspondence related to the federal nomination process; and the minutes and recording of the review board hearing. The SHPO retains a full record of all correspondence received and sent, and records created as part of the administrative process. The SHPO can provide this information upon request.

JOHNSON Ian * OPRD

From: Howerton, B <bj.howerton@bia.gov>
Sent: Friday, March 29, 2019 10:26 AM
To: JOHNSON Ian * OPRD
Subject: Re: [EXTERNAL] RE: Current National Register nomination of Trust Lands, Coos County Oregon

Thank you for the call and discussion.
BIA will defer to the two Tribal Historic Preservation Offices (THPOs).
Any questions please let me know.

Best regards,

BJ

On Fri, Mar 29, 2019 at 12:09 PM JOHNSON Ian * OPRD <Ian.Johnson@oregon.gov> wrote:

Dr. Howerton:

It was a pleasure to speak to you this morning regarding the the proposed O'alya ta Kukwis shichdii me Traditional Cultural Property Historic District (TCP).

As discussed on the phone, the Oregon SHPO would like to know if BIA as the holder of trust lands within the proposed District on behalf of the federally-recognized Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians (CTCLUSI) and Coquille Indian Tribe would like to review the nomination document under the provisions of 36CFR60, or if the agency prefers to defer this responsibility to the Coquille and CTCLUSI. Both tribes have Tribal Historic Preservation Offices (THPOs). If you could provide an answer by email that would be appreciated.

Thank you.

Ian Johnson

Ian P. Johnson | Associate Deputy State Historic Preservation Officer



Oregon Parks and Recreation Department, Heritage Division

State Historic Preservation Office

Desk: 503.986.0678 cell: 971.718.1137

Visit our website: www.oregonheritage.org

Like us on Facebook: <https://www.facebook.com/OregonHeritage>

Visit our Blog, The Oregon Heritage Exchange: <http://oregonheritage.wordpress.com/>

From: JOHNSON Ian * OPRD

Sent: Monday, March 25, 2019 1:41 PM

To: 'bj.howerton@bia.gov'

Subject: Current National Register nomination of Trust Lands, Coos County Oregon

Dr. Howerton:

I am contacting federal agencies whom we believe own real property within the proposed O'alya ta Kukwis shichdii me Traditional Cultural Property Historic District (TCP), nominated to the National Register of Historic Places by the federally-recognized Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians (CTCLUSI). The Oregon SHPO is identifying agencies that are required to review the nomination document under the National Historic Preservation Act of 1966, as amended, and 36CFR60. The CTCLUSI and the federally-recognized Coquille Indian Tribe both have trust lands within the nominated TCP, and both have active Tribal Historic Preservation Offices.

The Oregon SHPO would like to know if BIA would also be a certifying agency under the rules for the program. Both tribal governments are aware of the nomination and will be provided an opportunity to review and sign the document.

Should BIA be signing the document, the Oregon SHPO will send your office a copy of the nomination for review in mid-April 2019. We will ask your agency to make a recommendation regarding the TCP's eligibility for listing in the National Register on a signed National Register 10-900 form as required by federal rule.

The CTCLUSI requested that our office provide only the attached redacted copy to federal agencies. If this is not permissible for your review process, please let me know and I will have the Tribe contact your office directly to make appropriate arrangements to have the document reviewed.

As a follow up to this email, I would like to speak with you on the phone to go over any additional questions you may have, or details that I need to know in order to make sure the process works as smoothly as possible. I will be in the office most of the week. Please let me know what will work for you. Please let me know if there is another person I should be contacting regarding this issue.

The following information provides additional details on the TCP, the nomination process, and what we are asking of our federal partners.

The TCP is a 20-square mile area that follows the general horseshoe shape of the Coos Bay Estuary in Coos County, Oregon. The proposed district includes portions of the cities of Coos Bay and North Bend and Coos County. It contains 158 historic "contributing" properties associated with the history, culture, and beliefs of the Coos people, including two buildings and 156 places, or "sites." Non-historic "non-contributing" properties include roads, the airport, bridges, commercial properties, residential buildings, outbuildings, yards, gardens, agricultural lands, and industrial operations, etc. not specifically identified in the nomination document. These types of properties are not associated with the history, culture, and beliefs of the Coos people. A redacted copy of the nomination is attached, as is a spreadsheet of tax parcels identified as administered by the US Government to assist you in identifying your agency's holdings.

Under federal rule, the Oregon SHPO is responsible for administering the National Register nomination process when a proposed district includes both private and federal property. Our office opened the public notice period on December 21, 2018 with a public announcement in the local paper, The World, and since mailed postcards to owners and held public meetings as part of our outreach effort. On February 22, 2019, our State Advisory Committee on Historic Preservation (SACHP), the body responsible for reviewing nominations to the National Register, recommended that the Oregon SHPO forward the nomination to the National Park Service for listing in the National Register. A more complete description of the project is on our website here: [Blockedhttps://www.oregon.gov/oprd/HCD/NATREG/Pages/Jordan-Cove-TCP.aspx](https://www.oregon.gov/oprd/HCD/NATREG/Pages/Jordan-Cove-TCP.aspx) .

As part of the nomination process, the SHPO will provide each agency a copy of the nomination to review and a National Register 10-900 form to record the agency's recommendation in mid-April 2019. An agency may

choose to recommend or not recommend that the property be listed. The National Park Service (NPS) asked our office to collect signed forms from each agency and forward these and the rest of the completed nomination packet to NPS. We will do this on May 23, 2019. Federal rule requires our office to forward a nomination within 90 days of the SACHP hearing.

I sincerely appreciate your attention to this matter and look forward to speaking with you.

Ian Johnson

Ian P. Johnson | Associate Deputy State Historic Preservation Officer



Oregon Parks and Recreation Department, Heritage Division

State Historic Preservation Office

Desk: 503.986.0678 cell: 971.718.1137

Visit our website: www.oregonheritage.org

Like us on Facebook: <https://www.facebook.com/OregonHeritage>

Visit our Blog, The Oregon Heritage Exchange: <http://oregonheritage.wordpress.com/>

--

Dr. BJ Howerton, MBA
Branch Chief
Environmental and Cultural Resource Mgmt.
12220 Sunrise Valley Drive
Reston, VA

Telephone: (703) 390-6524
Cell (202) 897-9139

Fax: (703) 390-6325

E-mail: bj.howerton@bia.gov