

**MEMORANDUM OF
AGREEMENT BETWEEN
THE U. S. ARMY CORPS OF ENGINEERS
AND THE OREGON STATE HISTORIC PRESERVATION OFFICE
FOR THE COOS BAY NORTH JETTY CRITICAL REPAIRS PROJECT IN
COOS COUNTY, OREGON**

Subject: Resolve adverse effects to cultural resources resulting from the repairs to the Coos Bay North Jetty

WHEREAS, the United States Army Corps of Engineers, Portland District (USACE) plans critical repairs to the Coos Bay North Jetty to maintain stable deep-draft navigation through the entrance to Coos Bay ("Project"); and

WHEREAS, USACE plans to fund the Project, thereby making the project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. §§ 300101 *et seq.*, and its implementing regulations, 36 C.F.R. part 800; and

WHEREAS, USACE defined the undertaking's area of potential effect (APE) at the North Jetty as being located in Township 25 South, Range 13 West, Section 7, and Township 25 South, Range 14 West, Sections 12, 13, 23, 24, 26, and 35, Willamette Meridian (see Attachments A) and the Oregon State Historic Preservation Office (SHPO) concurred with the APE pursuant to 36 C.F.R. part 800; and

WHEREAS, USACE determined that the Coos Bay North Jetty is eligible for listing on the National Register of Historic Places (NRHP) under Criterion A (Attachment B) and consulted with the Oregon SHPO (SHPO Case 16-1783) pursuant to 36 C.F.R. part 800; and

WHEREAS, USACE determined that the undertaking will adversely affect the Coos Bay North Jetty through the removal of the embedded trestle remnants associated with the narrow-gauge railroad used in the original jetty construction in the 1890's and consulted with the Oregon SHPO; and

WHEREAS, the project is on USACE and Bureau of Land Management (BLM) managed lands and USACE consulted with BLM and has invited them to sign this Memorandum of Agreement (MOA) as an invited signatory; and

WHEREAS, USACE is the lead federal agency for compliance with the NHPA. As lead federal agency for compliance with NHPA, USACE will fulfill the collective responsibilities of the other federal agencies involved in the undertaking per 36 C.F.R. § 800.2(a)(2); and

WHEREAS, USACE consulted with the Confederated Tribes of Siletz Indians, the

Confederate Tribes of the Coos, Lower Umpqua, and Siuslaw Indians (CTCLUSI), and Coquille Indian Tribe (Coquille) and invited the tribes to sign this MOA as invited signatories; and

WHEREAS, the Confederated Tribes of Siletz Indians have not offered any comments on the undertaking and have declined to participate in this MOA effort; and

WHEREAS, USACE acknowledges its continued responsibility to engage in meaningful consultation with the Tribes (e.g., pursuant to Executive Order 13175, 54 U.S.C. § 302706(b), the January 26, 2021 Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships, and the November 5, 2009 Presidential Memorandum on Tribal Consultation) throughout the process of carrying out the stipulations of this MOA; and

WHEREAS, USACE consulted with the Coos History Museum regarding the effects of the undertaking on historic properties and invited them to sign this MOA as an invited signatory; and

WHEREAS, USACE, pursuant to 36 C.F.R. § 800.2(d)(2), provided the public with information about the undertaking and anticipated effects on the historic properties, and sought public comment and input through a draft Environmental Assessment that was completed and published in 2020; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), USACE notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect determination with specified documentation; the ACHP chose not to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

NOW THEREFORE, USACE and SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The U.S. Army Corps of Engineers shall ensure that the following measures are carried out by or under direct supervision of a person or persons meeting the Secretary of the Interior's Professional Qualifications Standards [62 Fed. Reg. 33,708 (June 20, 1997)]:

- I. The U.S. Army Corps of Engineers shall develop and publish an online entry describing the history of the Coos Bay North Jetty on the agency's public website. To develop this entry, USACE will conduct research at local, state, tribal, and national museums, historical societies, and archive repositories. The entry shall include text and images describing the history and significance of the Coos Bay North Jetty including, but not limited to, planning, design, construction, previous rehabilitation, and operation. At

least one draft of the proposed entry, images, and layout shall be provided to SHPO for review and comment before final acceptance and publishing. SHPO shall be afforded up to thirty (30) days from receipt to review the draft(s) and respond with comments. Upon acceptance, the entry shall be uploaded to the USACE online public website and a press release announcing the launch will be sent to SHPO, consulting parties, local news outlets, schools, and other entities.

- II. The U.S. Army Corps of Engineers shall digitize historic photographs, plans, and other materials of the construction and history of the Coos Bay North Jetty. All materials will be scanned and uploaded following the most current USACE Digital Library standards with appropriate metadata. Materials will come from the USACE collections and Coos History Museum collections but may also include materials from other collections. All digitized materials will be uploaded to the USACE Digital Library. Once published, a press release announcing the new collection will be sent to SHPO, consulting parties, local news outlets, schools, and other entities.
- III. The U.S. Army Corps of Engineers shall develop a single interpretative display with two panels. One panel will document the history and construction of the Coos Bay North Jetty including the significance of the Jetty in allowing for navigation at the entrance of Coos Bay. The second panel will document the history of the Coos Bay North Spit, including the changing landform over the years and the use of the spit by the tribes. This display will be located in a publicly accessible portion of the property or at some other publicly accessible location, subject to SHPO review and USACE approval. Illustrated interpretative panels (minimum size 24 inches by 60 inches) of high-quality durable materials suitable for outdoor display will be developed. Graphic design, content and final configuration of the display will be submitted to SHPO, BLM, Coquille, and CTCLUSI prior to fabrication for review and comment. SHPO, BLM, Coquille, and CTCLUSI will provide any comments within thirty (30) days of receipt of the draft. After addressing all submitted comments and resolving any outstanding issues, USACE will submit a final draft to SHPO, BLM, Coquille, and CTCLUSI for a final review period of up to thirty (30) days. Photographic documentation of the completed site interpretation installation will be provided to SHPO upon completion of this stipulation.
- IV. The U.S. Army Corps of Engineers shall conduct an Oregon State Level Documentation, according to Oregon SHPO standards (Attachment C), of the Coos Bay North Jetty. The documentation will be submitted to Oregon SHPO for review. SHPO will provide any comments within thirty (30) days of receipt of the draft. After addressing all submitted comments and resolving any outstanding issues, USACE will submit a final to SHPO, Oregon Historical Society, University of Oregon Night Library, and Coos History Museum.

- V. If any comments are provided to USACE in regard to **STIPULATIONS I–IV**, USACE will revise the draft documentation accordingly and resubmit the product(s) as described in **STIPULATIONS I–IV**. If no comments are provided to USACE by the end of the respective comment period, USACE will finalize the documentation as specified in **STIPULATIONS I–IV**. USACE will complete all mitigation specified in **STIPULATIONS I–IV** prior to the expiration of this MOA.
- VI. The U.S. Army Corps of Engineers shall bear the cost for completion of all mitigation obligations specified in **STIPULATIONS I–V**.

DURATION: This MOA will expire in five (5) years from the date of its execution, or earlier once USACE completes **STIPULATIONS I–VI**. Prior to such time, USACE may consult with any other signatories to reconsider the terms and amend any as determined necessary in accordance with the **AMENDMENTS** section of this MOA.

POST-REVIEW DISCOVERIES: If properties are discovered that may be historically significant or unanticipated effects on historic properties found, USACE shall implement the inadvertent discovery plan included as Attachment D of this MOA.

MONITORING AND REPORTING: Each year following the execution of this MOA until it expires or is terminated, USACE shall provide all signatories to this MOA with an annual summary report detailing work undertaken pursuant to the terms of this agreement. Such reports shall include all pertinent **STIPULATIONS** implementation information including any proposed scheduling changes, problems encountered, and descriptions of any disputes or objections received during USACE's efforts to carry out the terms of this MOA.

DISPUTE RESOLUTION: Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of the agreement are implemented, USACE shall consult with such party to resolve the objection. If USACE determines that such objection cannot be resolved, USACE will:

- a. Forward all documentation relevant to the dispute, including USACE's proposed resolution, to the ACHP. The ACHP shall provide USACE with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, USACE shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories and provide all signatories with a copy of the written response. USACE will then proceed according to its final decision.
- b. If the ACHP does not provide advice regarding the dispute within the thirty (30) daytime period, USACE may make a final decision regarding the dispute and

proceed accordingly. Prior to reaching a final decision, USACE shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and provide all signatories and the ACHP with a copy of the written response. USACE's decision will be final.

- c. U.S. Army Corps of Engineers' responsibility to carry out all other actions described in this MOA which are not subject to dispute remains unchanged.

AMENDMENTS: This MOA may be amended when such an amendment is agreed to in writing by all signatories. Any signatory may request that this MOA be amended by submitting such a written request to the other signatories and consulting parties. The signatories and consulting parties will have up to thirty (30) calendar days from the date of receiving the amendment request to consider the necessity and appropriateness of the proposed request. The amendment will be effective on the date a copy signed by all signatories is filed with the ACHP.

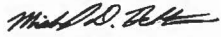
TERMINATION: If any signatory to this MOA determines that the agreement terms will not or cannot be carried out, that party shall immediately consult with the other signatories in an attempt to develop an amendment per the **AMENDMENTS** section of this MOA. If within thirty (30) days of initial consultation on termination, or another time period agreed to by all signatories, an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the Corps must either (a) execute an MOA pursuant to 36 C.F.R. § 800.6, or (b) request, take into account, and respond to the ACHP's comments under 36 C.F.R. § 800.7. The Corps shall notify the signatories as to the course of action that it will pursue.

EXECUTION: Execution of this MOA by USACE and SHPO, and implementation of its terms, is evidence that USACE and SHPO have taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

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SIGNATORIES:



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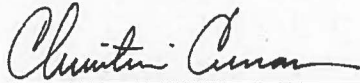
Michael D. Helton, PMP
Colonel, Corps of Engineers
District Commander

9 March 2021

(Date)

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SIGNATORIES:



Christine Curran
Deputy State Historic Preservation Officer
State of Oregon

04/06/21

(Date)

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INVITED SIGNATORIES:

STEVEN LYDICK Digitally signed by STEVEN
LYDICK
Date: 2021.04.14 14:44:17 -06'00'

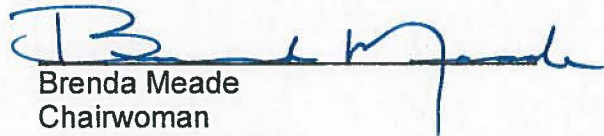
Steven Lydick
Coos Bay District Manager (Acting)
Bureau of Land Management

04/14/2021

(Date)

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INVITED SIGNATORIES:


Brenda Meade

Chairwoman

Coquille Indian Tribe

6/1/21
(Date)

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INVITED SIGNATORIES:

Debbie Bosley
Chairwoman,
Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw

(Date)

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INVITED SIGNATORIES:



Marcia Hart
Director
Coos History Museum

4-13-2021

(Date)