



UPDATE ON CURRENT TFW CULTURAL
RESOURCES ROUNDTABLE
DISCUSSIONS

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1987 TFW Agreement

- The archaeological and cultural goals:
 - to develop a process to inventory archaeological / cultural spaces in managed forests; and
 - to inventory, evaluate, preserve and protect traditional cultural and archaeological spaces and assure tribal access

Definitions / Examples

Archaeological resources:

- Examples include shell middens, lithic scatters, rock paintings, talus slope gravesites, and culturally modified trees
- only one kind of cultural resource

Cultural resources (from WAC 222-16-010):

- archaeological and historic sites and artifacts, and traditional religious, ceremonial and social uses and activities of affected Indian tribes

Historic sites:

- locations where Native or non-Native events and activities have taken place since contact with Euro-Americans
- Examples: homesteads, forts, lumber mills and cabins

Definitions / Examples (cont.)

Traditional materials:

- the resources (from a broad variety of plants, animals and minerals) used by Native peoples to sustain their culture
- Examples include bear grass, tule, and cedar and birch trees

Traditional places:

- landscapes, sacred sites, legendary areas, indigenous uses and objects identified by affected Indian tribes as being important for the maintenance and perpetuation of their traditional values and practices
- Examples: sacred ceremonial sites, groves used for gathering edible/medicinal plants and sources of materials used for traditional tools and arts

Tribal concerns raised in 2014 & 2015

- **March 2014:** Yakama Nation:
 - Concerns that DNR was not conditioning FPAs for landowner-Tribe agreed-upon cultural resource plans under WAC 222-20-120 (4)
- **August 2014:** Confederated Tribes of the Umatilla Indian Reservation (CTUIR):
 - Similar concerns raised
- **Early 2015:**
 - Yakama Nation, CTUIR and Upper Columbia United Tribes (UCUT) request action on this issue

Yakama Nation Proposal to implement 1987 TFW Agreement Archaeological and Cultural Goals

- 1) Restore WAC 222-20-120(4) with the “may” changed to “shall”. Instruct all Regions to consistently make plans agreed to between Tribes and landowners an FPA condition when requested.
- 2) Instruct all Regions to consistently require meetings under WAC 222-20-120(2) when Tribes appropriately use WAC 222-16-050(5)(k) to identify cultural resources.
- 3) Insert incidental discovery language into every approved FPA.
- 4) Use the DAHP predictive model to screen every FPA. High Risk and Very High Risk areas shall trigger a required professional survey to “inventory archaeological/cultural spaces”. Consultation with local Tribes will be required.
- 5) When archaeological and cultural sites are discovered professionals shall “inventory, evaluate” and make recommendations to “preserve and protect” in consultation with local Tribes.
- 6) “Assure Tribal access” to Tribally significant areas in “managed forests” through binding consultation between affected Tribes and landowners.

More Definitions / WACs

WAC 222-16-050 Classes of forest practices:

- “Class IV – special” includes:
 - Timber harvest or construction of roads, landings, etc. ... on archaeological sites or historic archaeological resources, historic sites eligible for listing, sites containing evidence of Native American cairns, graves, or glyptic records,
 - EXCEPT if covered by a management plan agreed to by the landowner, the affected Indian tribe, and the DAHP as part of the proposed application, and the landowner states this in the application

WAC 222-16-050(5)(k):

- Class III forest practices include:
 - Harvesting, road construction, etc. on **lands which contain cultural, historic or archaeological resources** which, at the time the application or notification is filed, have been identified to the department as being of interest to an affected Indian tribe

More Definitions / WACs (cont.)

WAC 222-20-120 Notice of forest practices that may contain cultural resources to affected Indian tribes:

- (2) Where an application is within a tribe's geographic area of interest and **contains** cultural resources, the landowner, at the tribe's discretion, shall meet with the affected tribe(s) prior to the application decision due date with the objective of agreeing on a plan for protecting the archaeological or cultural value
- (4) The department **may** condition the application in accordance with the plan.

Current and proposed forest practices processes involving cultural resources

- Class IV – special FPAs involving archaeological resources (without a management plan) go through SEPA
- Forest Practices Act conditioning authority (per memorandum of legal judgment by counsel to the FPB (Phil Ferester - AAG):
 - “Outside of the Class IV-Special SEPA requirements discussed above, the Board’s remaining rule structure concerning cultural resources consists mostly of voluntary measures.”
 - “The policies in the FP Act do not support mandatory conditioning for cultural resources.” (addresses “may” vs. “shall”)

Current and proposed forest practices processes involving cultural resources

- One tribe (Yakama Nation) currently uses a predictive model (Kittitas model) to identify “lands which contain cultural, historic or archaeological resources” as being of interest to the tribe
- The Yakama Nation, with some support from several other tribes and DAHP, proposes mandatory use of the DAHP predictive model to screen every FPA.
- “High Risk and Very High Risk areas shall trigger a required professional survey to “inventory archaeological/cultural spaces”.”
- The landowner is currently identified as the party responsible for getting the required professional survey performed.

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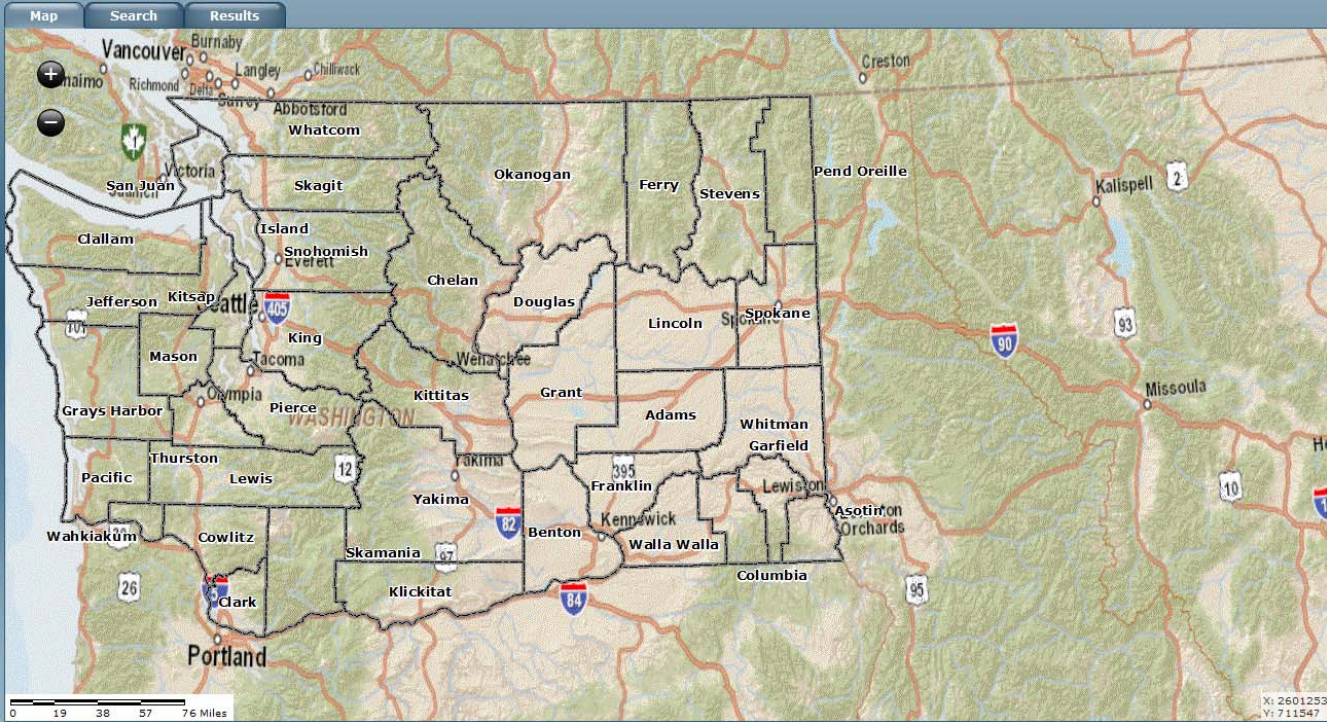
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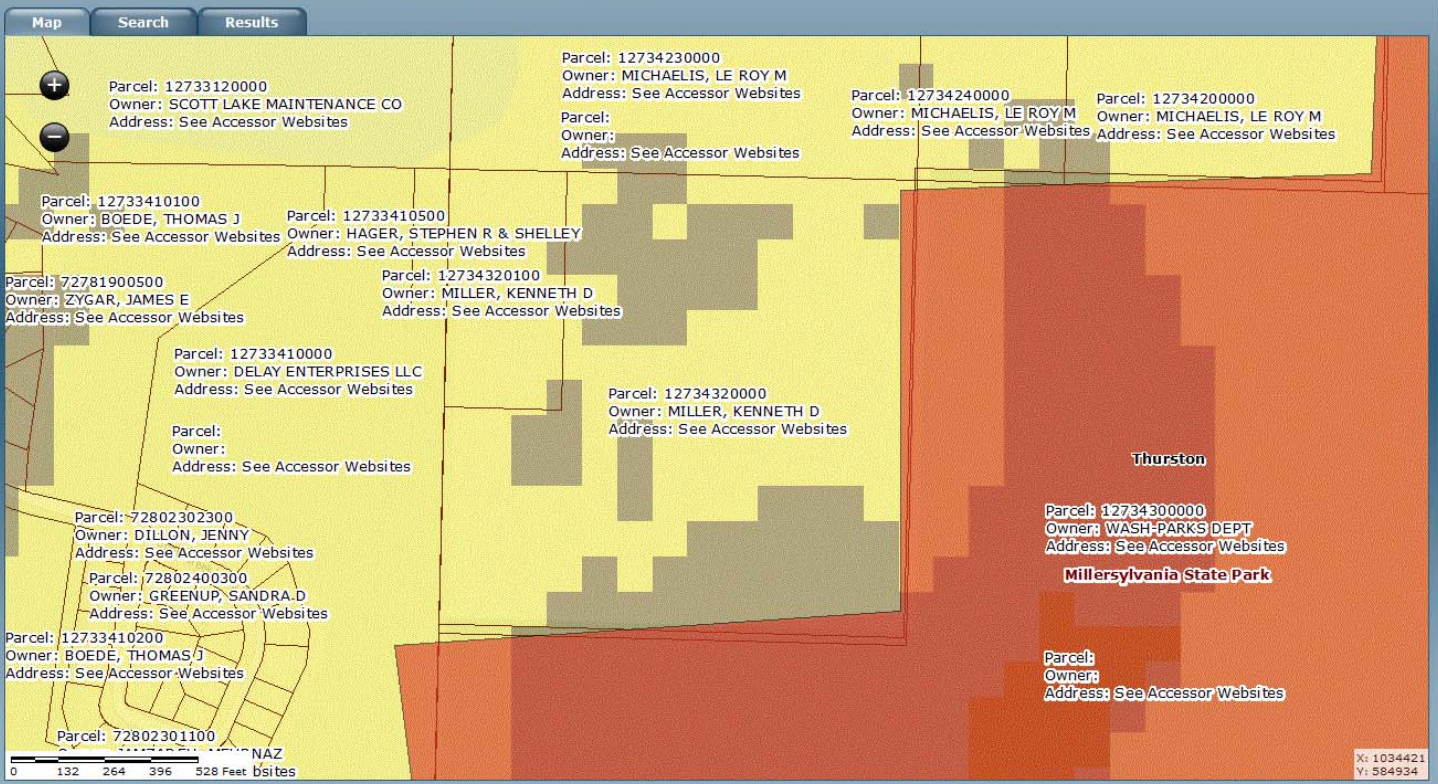


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Inadvertent Discovery language

Questions?