

Prepared for:
Metro

Archaeological Monitoring Plan and Inadvertent Discovery Plan

Smith and Bybee Channel Management Project, Portland, Oregon

August 2017

Prepared by:
Willamette Cultural Resources Associates, Ltd.

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1.0 Background

Metro has proposed channel management improvements at Smith and Bybee Wetlands Natural Area in Portland, Oregon. The Smith and Bybee Wetlands Natural Area is in North Portland, bounded by N. Portland Road to the west, N. Marine Drive to the north, N. Columbia Boulevard to the south, and N. Lombard Street to the west (Figure 1). Metro owns and manages the natural area. While the entire wetlands encompass nearly 2,000 acres, the proposed improvements will be limited to the unnamed channel between Smith and Bybee lakes, and the area surrounding the channel (approximately 8.2 acres).

Presently, Smith Lake is connected to the Columbia Slough via a sediment-filled channel that ends at a control structure. Due to sediment deposition, the lake level does not respond to elevation changes at the control structure. The proposed improvements include removal of excess sediment in the channel, allowing Smith Lake to be responsive to the control structure. Excavated materials from the channel will be re-used on-site to construct additional forested wetland habitat at the edge of Smith Lake. The proposed project would involve the following: construction or use of temporary access paths, excavation of sediment from the channel between Smith and Bybee lakes, construction of forested wetland habitat using the excavated sediment (with permanent stabilization measures), and removal of the temporary access path and path rehabilitation. All paths will consist of a vehicle route on the existing grade/ground surface on higher ground, or the construction of a pathway using fabric on the ground surface topped by gravel that will be removed following the project. Vehicle traffic itself will consist of low-pressure tires to minimize impacts to the ground surface.

The project requires obtaining a Section 404 permit from the U.S. Army Corps of Engineers (USACE) and is therefore subject to the provisions of Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800). The NHPA and its implementing regulations require federal agencies to consider the effects of their actions on historic properties, which are defined as sites, districts, or other properties that are listed or eligible for listing on the National Register of Historic Places. Metro contracted with Willamette Cultural Resources Associates, Ltd. (WillametteCRA), to conduct the cultural resources investigation for the Smith and Bybee Channel Management project.

WillametteCRA identified four new archaeological resources. These consist of: two precontact sites (17-47-1 and 17-47-2), both consisting of FCR features and scatters; one precontact isolate (17-47-3-ISO), consisting of two pieces of FCR surrounded by negative probes; and the remains of a mid-twentieth century bridge (17-47-4) (Figure 2). WillametteCRA noted that while the project as designed will not impact known portions of potentially significant sites, the project area is complex and sometimes has thick sediment deposition. The possibility remains that the sites identified at the mouth of the channel continue beyond the water line at the time of the survey. WillametteCRA therefore recommended that a professional archaeologist monitor all ground-disturbing activities in the vicinity of

these two sites. This Inadvertent Discovery Plan defines the role and responsibilities of the archaeological monitor and procedures to be followed should any discoveries be made during monitoring (Gilmour et al. 2017).

Three Tribal governments have been identified as having an interest in the cultural resource work at the project location. The three governments are:

- Confederated Tribes of the Grand Ronde Community of Oregon
- Confederated Tribes of Siletz Indians of Oregon
- Confederated Tribes of the Warm Springs Reservation of Oregon

The USACE has the lead responsibility for ensuring compliance with applicable federal laws and regulations.

2.0 On-Site Procedures

To assure compliance with the relevant federal regulations (36 CFR 800.13) and Oregon archaeological and cultural resource laws (ORS 97.740 et seq., 358.905 et seq., 390.235 et seq. and Oregon Administrative Rule [OAR] 736-051-0080 to 0090), the following procedures have been developed to address potential inadvertent discoveries of cultural materials and deposits (including sacred objects, funerary objects, and objects of cultural patrimony as defined in ORS 358.905) and Indian burials and human remains (as defined in ORS 358.905) during ground-disturbing activities at the project location.

Professional Archaeologist On-Site

Metro will retain the services of a professional archaeologist as defined in ORS 97.740 and ORS 390.235(6) (b) to provide on-site monitoring when excavation or other ground-disturbing work is undertaken in the channel in proximity to the precontact archaeological sites. The archaeologist will monitor all dredging and associated ground-disturbance at or in the immediate vicinity of the sites. Should little or no evidence of archaeological materials be identified during that monitoring, further monitoring may cease at the discretion of the monitor.

Following completion of the dredging of the channel, the archaeologist will inspect the redeposited sediments to determine if any artifacts are present in those sediments. If so, those artifacts will be recorded as an archaeological isolate or site with the SHPO for future reference.

2.1 Discovery

Should the monitor observe evidence of a burial, archaeological object, or archaeological site, the monitoring archaeologist—at his/her discretion—may slow or halt the excavation or other ground-

disturbing activities. The objective of this slowing or halting excavation or other ground-disturbing activity is to allow the archaeologist to confirm and/or make a preliminary assessment of the discovery.

Should the monitoring archaeologist determine that archaeological artifacts are present and that the artifact(s) are in fill or disturbed deposits and intact archaeological deposits are absent, he or she will document the discovery through maps and photographs, then retrieve, bag, and catalog the item(s). Upon completion of the documentation and retrieval of the artifact(s), the monitor will authorize construction activity to resume.

Should the monitoring archaeologist determine that a possible burial or significant cultural resource has been encountered, he or she will immediately notify Metro's designated representative. Metro's representative will then promptly notify the USACE who will in turn notify the Oregon SHPO, and the appropriate Tribes of the find and the initial findings of the examining archaeologist. The monitoring archaeologist will work with Metro's representative and Metro's contractor to determine when and where work can continue.

At the request of the monitor, Metro's contractor will either

- Assist in securing access to the location of the discovery and take appropriate measures to protect the location of the discovery from rain, stormwater, and other possible disturbances, or
- Assist the archaeologist in moving the artifacts to a protected and secure area of the site away from the immediate construction area if relocation of the artifacts is appropriate or necessary.

If it is necessary for the archaeologist to enter any excavations to better examine a find or possible find and those excavations are deeper than four feet below the surface, Metro's contractor will provide appropriate shoring or implement other measures to ensure compliance with all applicable state and federal safety requirements. The archaeologist will not enter any excavations until these requirements are met.

2.3 Human Remains or Burials

If evidence of human remains or a burial is identified, the location will be secured and protected from any further disturbance, including from weather. The archaeological monitor will be responsible for immediately notifying Metro (pursuant to ORS 97.745(4)). Metro will then notify the USACE, who will in turn notify the Oregon State Police, the SHPO, the three Tribes referenced above, the Commission on Indian Services, and the Multnomah County Medical Examiner. No remains or associated artifacts will be removed without authorization.

If the site is determined not to be a crime scene, and the human remains are identified as Native American, Metro shall continue to secure the remains and any associated funerary objects in place, until their final disposition on-site in a predetermined location. Metro shall give due consideration to and honor, to the extent possible, any request by the Tribe(s) to leave the remains and/or other cultural items in place. Construction and other ground-disturbing activity may not resume in the discovery vicinity until authorized by the appropriate agencies and Tribes.

3.0 Confidentiality

Metro shall make their best efforts, in accordance with federal and state law, to ensure that its appropriate personnel and contractors keep the discovery of any found or suspected human remains, cultural items, and potential historic properties confidential. Metro and the USACE may not contact the media or any third party or otherwise share information regarding the discovery with any member of the public. Metro is to be immediately notified of any inquiry from the media or public. Prior to any release, Metro, the USACE, and the Tribes shall concur on the amount of information, if any, to be released to the public, any third party, and the media and the procedures for such a release, to the extent permitted by law.

4.0 References

Gilmour, Daniel M., Todd Ogle, and Kanani Paraso
2017 Cultural Resources Survey Report for Metro's Smith and Bybee Channel Management Project, Multnomah County, Oregon. WillametteCRA Report No. 17-47. Prepared for Metro, Portland, Oregon.

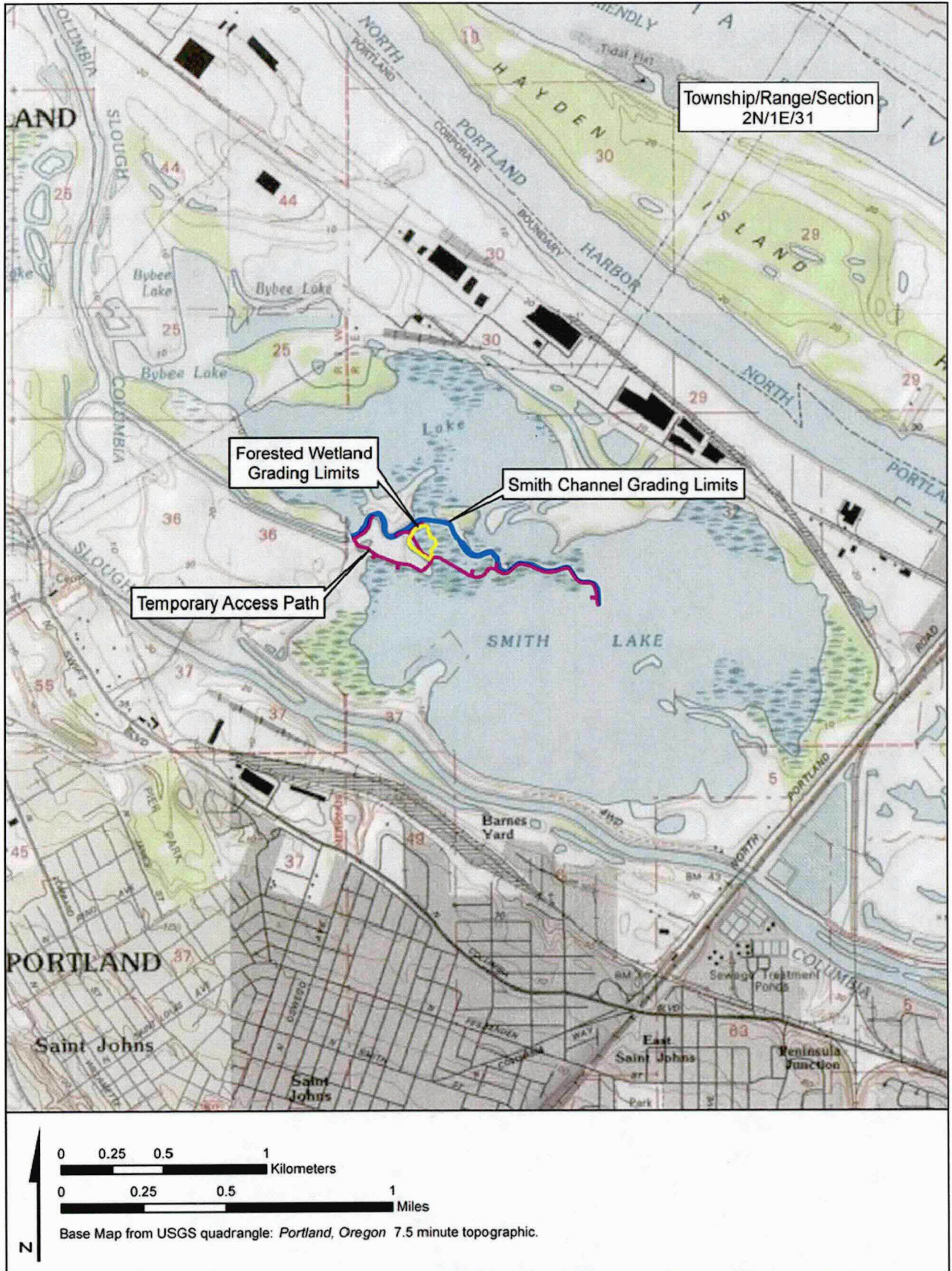


Figure 1. Smith and Bybee channel management project location.

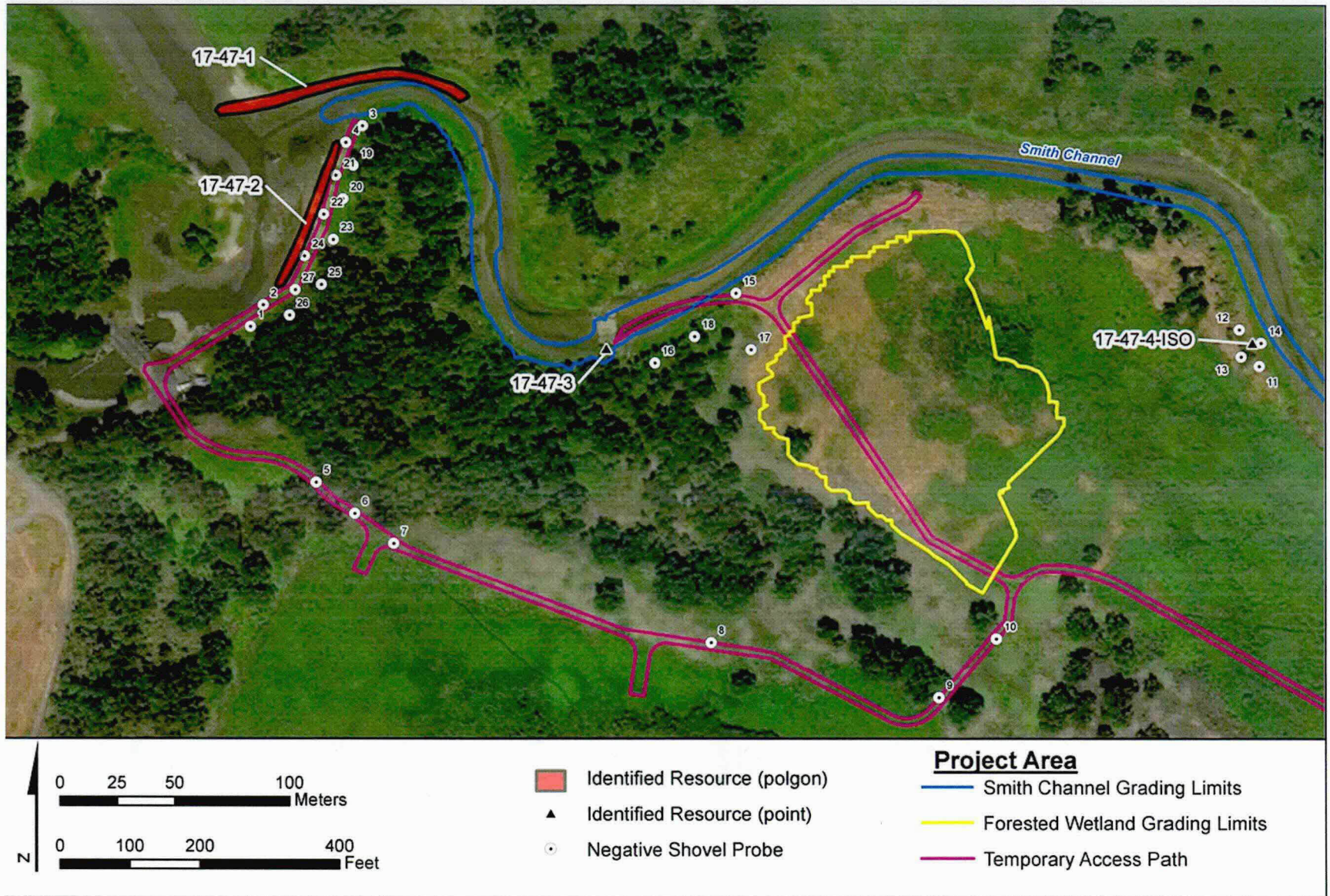


Figure 2. Detail of archaeological fieldwork and location of resources.

Attachment A:

Contact Information for Inadvertent Discovery Plan

| Tribe/Agency/Organization | Contact Name | Email Address | Phone Number |
|--|-------------------|--|--|
| Metro | Elaine Stewart | Elaine.stewart@oregonmetro.gov | 503-797-1515 503-348-5424 (cell) |
| USACE | Chris Page | Christopher.M.Page@usace.army.mil | 503-808-4389 |
| Willamette Cultural Resources Associates, Ltd. | David Ellis | davee@willamettecra.com | 503-281-4576 503-805-0778 (cell) |
| SHPO | Dennis Griffin | dennis.griffin@state.or.us | 503-986-0674 |
| Oregon State Police | Sgt. Chris Allori | | 503-731-4717 503-708-6461 (cell) |
| Commission on Indian Services | Karen Quigley | Karen.quigley@state.or.us | 503-986-1068 |
| Grand Ronde | David Harrelson | David.Harrelson@grandronde.org | 503-879-1630 503-879-2320 (cell) |
| Siletz | Robert Kentta | rkentta@ctsi.nsn.us | 541-444-8244 |
| Warm Springs | Roberta Kirk | | 541-553-3464 |
| Multnomah County Medical Examiner | | | 971-673-8220 |

ORS 358.905

(1) As used in ORS [192.005 \(Definitions for ORS 192.005 to 192.170\)](#), [192.501 \(Public records conditionally exempt from disclosure\)](#) to [192.505 \(Exempt and nonexempt public record to be separated\)](#), [358.905 \(Definitions for ORS 358.905 to 358.961\)](#) to [358.961 \(Time limitations on actions or proceedings\)](#) and [390.235 \(Permits and conditions for excavation or removal of archaeological or historical material\)](#):

(a) "Archaeological object" means an object that:

(A) Is at least 75 years old;

(B) Is part of the physical record of an indigenous or other culture found in the state or waters of the state; and

(C) Is material remains of past human life or activity that are of archaeological significance including, but not limited to, monuments, symbols, tools, facilities, technological by-products and dietary by-products.

(b) "Site of archaeological significance" means:

(A) Any archaeological site on, or eligible for inclusion on, the National Register of Historic Places as determined in writing by the State Historic Preservation Officer; or

(B) Any archaeological site that has been determined significant in writing by an Indian tribe.

(c) (A) "Archaeological site" means a geographic locality in Oregon, including but not limited to submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects and the contextual associations of the archaeological objects with:

(i) Each other; or

(ii) Biotic or geological remains or deposits.

(B) Examples of archaeological sites described in subparagraph (A) of this paragraph include but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters, homesteads and townsites.

(d) "Indian tribe" has the meaning given that term in ORS [97.740 \(Definitions for ORS 97.740 to 97.760\)](#).

(e) "Burial" means any natural or prepared physical location whether originally below, on or above the surface of the earth, into which, as a part of a death rite or death ceremony of a culture, human remains were deposited.

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(f) "Funerary objects" means any artifacts or objects that, as part of a death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later.

(g) "Human remains" means the physical remains of a human body, including, but not limited to, bones, teeth, hair, ashes or mummified or otherwise preserved soft tissues of an individual.

(h) "Object of cultural patrimony":

(A) Means an object having ongoing historical, traditional or cultural importance central to the native Indian group or culture itself, rather than property owned by an individual native Indian, and which, therefore, cannot be alienated, appropriated or conveyed by an individual regardless of whether or not the individual is a member of the Indian tribe. The object shall have been considered inalienable by the native Indian group at the time the object was separated from such group.

(B) Does not mean unassociated arrowheads, baskets or stone tools or portions of arrowheads, baskets or stone tools.

(i) "Police officer" has the meaning given that term in ORS [181A.355 \(Definitions for ORS 181A.355 to 181A.670\)](#).

(j) "Public lands" means any lands owned by the State of Oregon, a city, county, district or municipal or public corporation in Oregon.

(k) "Sacred object" means an archaeological object or other object that:

(A) Is demonstrably revered by any ethnic group, religious group or Indian tribe as holy;

(B) Is used in connection with the religious or spiritual service or worship of a deity or spirit power; or

(C) Was or is needed by traditional native Indian religious leaders for the practice of traditional native Indian religion.

(l) "State police" has the meaning given that term in ORS [181A.010 \(Definitions for ORS 181A.010 to 181A.350\)](#).

(2) The terms set forth in subsection (1)(e), (f), (g), (h) and (k) of this section shall be interpreted in the same manner as similar terms interpreted pursuant to 25 U.S.C. 3001 et seq. [1983 c.620 §1; 1993 c.459 §1; 1995 c.588 §1]