



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## **2021 Annual Government-to-Government Report**

The Department of Land Conservation and Development (DLCD or the department) appreciates the opportunity to provide this annual report on Government-to-Government Relations in accordance with Oregon Revised Statutes 182.166. The report summarizes the department's Government-to-Government relations with Oregon's nine federally recognized Tribal Nations (Tribes) throughout 2021. Department policies (DO 120.02 and DO 120.03) were created to facilitate positive relations with the nine Tribes, working cooperatively on environment and economic development areas of interest.

Recognizing that each sovereign Tribal Nation has unique values and aspirations, the department works to provide assistance within the broad direction provided by state statute and executive orders. The department appreciates the support of and relationship with the Legislative Commission on Indian Services (LCIS), which includes serving on the LCIS working groups. This and prior annual reports to the LCIS can be accessed through the department's [Tribal Relations web page](#).

During the last year, DLCD staff invited consultation on the following rulemaking and major policy initiatives and the associated statewide land use planning goal or administrative rule:

- Consultation on updates to Oregon's Territorial Sea Plan Part Three: Rocky Habitat (Goal 19: Ocean Resources)
- Shoreline armoring for coastal infrastructure and roads (Goal 18: Beaches and Dunes)
- Citizen Involvement Advisory Committee (Goal 1: Citizen Involvement)
- Cultural Resources (Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces)
- Federal Consistency Consultation Processes in the Coastal Zone (Multiple goals)
- DLCD's 2021-2023 Policy Agenda (includes rulemaking for Goal 5 and Cultural Resources)
- Emergency Rule on Interim Shelter for Persons Displaced by Wildfire (Multiple goals)

### **Key Contacts and Policies**

The department's primary and alternate key contacts are responsible for assuring that the department is kept apprised of activities that may be of interest to the Tribes, to provide

appropriate Tribal contacts, and to ensure that the Tribes are informed of department activities. The department recognizes that maintaining good communication is a benefit to the Tribes and to the State of Oregon.

Primary Key Contact

Jim Rue, Director

503-881-0667  
[jim.rue@dlcd.oregon.gov](mailto:jim.rue@dlcd.oregon.gov)

Kirstin Greene, Deputy Director  
503-934-0017  
[kirstin.greene@dlcd.oregon.gov](mailto:kirstin.greene@dlcd.oregon.gov)

#### Alternate Key Contact

Director Jim Rue and other members of the agency Tribal Liaison team were pleased to attend the 2021 Annual Tribal-State Government-to-Government Summit by Zoom on December 1 and 2, 2021.

Deputy Director Kirstin Greene and Coastal Policy Specialist Heather Wade served as DLCD's liaisons for the Cultural Resources Cluster Work Group in 2021. Natural Resources Specialist Amanda Punton was DLCD's primary Natural Resources Work Group liaison, supported by Farm and Forest Specialist Hilary Foote. Economic Development Specialist Leigh McIlvaine is DLCD's primary contact to the Economic and Community Development Cluster Work Group.

The department's "Policy on Government to Government Relations with Oregon Tribes" and "Local and Tribal Government Communication Policy" are attached for reference.

### **Oregon Coastal Management Program**

The department is the administering agency for the Oregon Coastal Zone Management Program (OCMP). This federally approved management program results in two primary benefits to the state: (1) funding to administer the program and support coastal communities; and (2) federal consistency authority. The Program includes 10 state agencies and 40 local jurisdictions in the coastal zone. OCMP funded coastal program staff encourage coordination with all impacted Tribal Nations on programmatic initiatives and strategic planning for the Program.

As a matter of practice, department staff continue to proactively coordinate with the Tribes in the review of federal permits and federal actions, in accordance with OCMP's federal consistency authority. An Oregon Sea Grant Natural Resource Policy Fellow, Kyle Byers (971-375-5978 | [kyle.byers@dlcd.oregon.gov](mailto:kyle.byers@dlcd.oregon.gov)), has been placed with the OCMP to formalize and document these practices through the development of a Tribal coordination and consultation policy and related procedures, specific to this federal consistency authority. We are fortunate and grateful that Kassandra Rippee, THPO and Archaeologist for the Coquille Indian Tribe, has agreed to act as advisor to the project team.

Invitations to request consultation on the project were sent to all Tribal Nations on October 26, 2021, with supplemental material describing the project being sent on November 17, 2021. In the early stages of the project, the team is focusing on gathering and sharing information with the goal of learning more about Tribal Nations' interests in and capacity to engage with the different types of activities subject to federal consistency review. Based on this improved understanding, we plan to develop procedures to streamline and standardize protocols and communication methods, while leaving room for flexibility as circumstances require.

The project has three major milestones which correspond with requests for Tribal engagement. All dates are estimates and may be subject to change as the project requires: 1) the review of the outline of the policy (February 2022); 2) the review of the draft policy (May 2022); and 3) review and seeking agreement on "final" policy (August 2022). The project will officially end on

September 19, 2022, with the conclusion of the one-year fellowship. However, we anticipate that coordination and consultation may extend beyond that date as we work to finalize the policy.

In 2020, as a part of conducting Federal Consistency Review under the Coastal Zone Management Act, staff conducted staff to staff consultation and coordination with the Coos, Lower Umpqua, and Siuslaw Indians as well Coquille, Siletz, and Grand Ronde on the proposed Jordan Cove Energy Project and DLCDC's role. Staff provided information to CTCLUSI and other coastal Nations on cultural resource enforceable policies under the Coastal Zone Management Act administration. Staff reviewed letters from Tribal Nations as part of our federal consistency review. Staff fielded additional requests for information regarding OCMP enforceable policies with respect to Oregon's land use system and responsibilities for review of federal activities. Coastal program staff would like to continue discussions with staff and/or leadership of Tribal Nations regarding how we can improve enforceable policies and processes. Deanna Caracciolo (503-956-8163 | [deanna.caracciolo@dlcd.oregon.gov](mailto:deanna.caracciolo@dlcd.oregon.gov)) is the DLCDC contact for Jordan Cove and other federal consistency reviews of interest to the Tribes.

Coastal program staff have posted all pertinent information at <https://www.oregon.gov/LCD/OCMP/Pages/Federal-Consistency.aspx>. DLCDC continues to participate in interagency and staff-to-staff Tribal coordination meetings related to the project.

In 2021, agency staff are able to offer financial assistance for staff participation in the National Oceanographic and Atmospheric Administration-funded Project of Special Merit for an update to the Yaquina Bay Estuary Management Plan.

Coastal program staff including the Marine Affairs Coordinator, Rocky Habitat Project Coordinator, and Coastal Program Manager worked with staff from coastal Tribal Nations as part of the Territorial Sea Plan (TSP) Amendment process for the Rocky Habitat Management Strategy (TSP Part 3). Staff have communicated with these nations' governmental staff through email, and in-person (remote) meetings to provide information on the amendment process in order to facilitate discussions regarding coastal Tribes' feedback on the proposed plan amendments. Staff from the Tribal Nations as well as the coastal program have been focused on identifying the future coordination and consultation process needs associated with any proposals for site designations with the potential for impacting Tribal practices and lifeways.

These specific activities have been part of the process:

Rocky Habitat Tribal Work Sessions - two roundtable work sessions were convened in September and October primarily with natural resources staff invited from the five Tribal Nations with interests in the coastal zone. The focus of these meetings was to better engage with Tribal Nations on the TSP amendment process, help DLCDC's Ocean and Coastal Management Program (OCMP) staff better understand Tribal Nation perspectives and concerns related to coastal rocky habitats and resources, and identify opportunities for coordination and collaboration to help ensure these views are appropriately incorporated and represented throughout the process.

Several tasks and opportunities were identified as a result of these meetings. Plans for coordination between OCMP and Tribal staff now include a) the appropriate inclusion and

representation in relevant sections of the Rocky Habitat Management Strategy text, b) appropriate inclusion and representation on SeaSketch and OregonOcean.info, c) notifications and clearer expectations for engagement in the proposal processes and meetings, and d) scheduling a follow-up work session meeting in early 2021. As of this reporting, each of the above tasks are currently in progress.

In the Strategy text, participants identified a need to include clarification of the possibility that rocky habitat site management regulations, in some instances now or in the future, may not apply to Tribal Nations who have external harvest agreements with the state. This was reviewed and approved by all parties. Other sections of the Strategy relevant to the Tribal Nations may be reviewed and updated as necessary in winter and spring.

Opportunities for Tribal Nation inclusion and representation on OregonOcean.info and the SeaSketch tool have been identified through this process, drafted by agency staff and forwarded to Tribal staff for review and approval. This includes coordination on implementing Tribal lands data and information.

Modifications to the steps of the proposal review process were developed, reviewed, and approved by all parties. This change clarifies the responsibilities and expectations for communicating with Tribal Nations through the rocky habitat proposal process, and when coordination and/or consultation may be appropriate.

Staff have sent invitations to schedule a third work session in early 2021 to Tribal Nation natural resource staff contacts. Work to schedule that meeting is underway.

On December 8, 2020, at the CTCLUSI's request, staff convened between several Tribal Nations representatives, DLCD staff, and DLCD's Department of Justice representative to discuss what consultation could look like regarding the designation process and staff recommendation to Ocean Policy Advisory Council (OPAC), OPAC's role in consultation, and a multi-agency approach to consultation as that time comes (Oregon Parks and Recreation Department, Oregon Department of Fish and Wildlife, et al). Meeting summary information will be forwarded to OPAC members.

Future work in the TSP3 amendment process will include ongoing coordination with Tribal Nations to fulfill the tasks identified above and identify any additional tasks and opportunities for coordination with Tribal Nations. Following receipt of the public rocky habitat proposals after December 31, 2020, proposals will be forwarded to Tribal Nations staff for review and to invite feedback or consultation as necessary. Strategy text revisions to appropriately include and represent Tribal Nations will be made and included in the final Strategy draft which will be submitted for OPAC approval in their spring 2021 meeting.

The Marine Affairs Coordinator assisted OPAC and the Governor's Natural Resources Office Governor's office to announce and solicit nominations to facilitate the appointment a new Tribal government representative to the Council. This action was associated with an OPAC discussion that resulted in a letter to the Governor's office recommending removal of the statutory requirement for senate confirmation of the nominee. There was also discussion at the OPAC meeting of each coastal Tribal government having a seat on the Council, but there was not support at the Council for that recommendation. This discussion resulted in a letter to LCDC

from the CTCLUSI Tribal government. LCDC wrote a letter to the Governor's office in support of better representation of coastal Tribes at OPAC on August 19, 2020.

In another project funded by the US Department of Defense funding to avoid conflicts between sites needed for military activities and natural resource protection, the Oregon Renewable Energy Siting Assessment project staff from DLCD and the Oregon Department of Energy (ODOE) have communicated with Tribal governments in regards to their participation in project surveys and comment opportunities related to the production of a siting tool for consideration of development of renewable energy in the state. Several Tribal governments have received approval for funding through Interagency Agreements to receive reimbursement for time spent on project review and feedback activities. Collaboration with Tribal entities is occurring by project contractors, upon review and approval by DLCD and ODOE staff.

In November 2021, LCDC's adopted a policy agenda for the 2021-2023 biennium. Rulewriting for Goal 5 specific to cultural areas is included on the agenda and is anticipated to begin in the latter half of 2022. Goal 5 "Cultural Areas" are understood to include archeological sites with Native American artifacts, human remains, and associated funerary objects. Oregon Tribes also consider significant cultural areas to include sites used consistently, over centuries, for ceremonial activities or food gathering.

Oregon Administrative Rule 660-023 lacks an implementing rule specific to cultural resources. This is one reason why local measures to protect significant cultural areas from disturbance during development have not manifested as originally envisioned in the goal. DLCD and LCDC have been in discussion with representatives of Oregon's Tribal Nations to explore how a new administrative rule could improve protections for areas and items that are sacred to one or more Tribes. It is hoped that a new rule will improve awareness of and compliance with state laws regulating treatment of cultural resources. A new rule may also direct local governments to require proactive measures when development is permitted on private land where there is information indicating the presence of a significant cultural resource.

Patty Snow (503-508-2215 | [patty.snow@dlcd.oregon.gov](mailto:patty.snow@dlcd.oregon.gov)) and Andy Lanier (503-934-0072 | [andy.lanier@dlcd.oregon.gov](mailto:andy.lanier@dlcd.oregon.gov)) are the DLCD contacts for regional ocean issues. Both staff are engaged with the West Coast Ocean Alliance, which is an ocean management coordinating body between the three west coast states, west coast Tribes and federal agencies. Amanda Punton (503-206-2291 and [Amanda.punton@dlcd.oregon.gov](mailto:Amanda.punton@dlcd.oregon.gov)) is the best contact for Goal 5 issues.

### **Natural Hazards Planning**

DLCD Natural Hazards Team planners are working to engage Tribal Nations in regional Natural Hazards Mitigation Plan projects. Specific initiatives follow.

Agency staff worked with the Burns Paiute Tribe for several years on their Natural Hazard Mitigation Plan (NHMP). The Burns Paiute Tribe 2021 NHMP was approved by the Federal Emergency Management Agency (FEMA) on July 21, 2021. The NHMP is effective July 21, 2021 to July 20, 2026.

Members of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) participated on the Steering Committee of the Umatilla County Multi-Jurisdictional NHMP. Funding for this work was obtained through a Hazard Mitigation Grant Program (HMGP) grant and the update was done at an accelerated pace in response to the 2020 flood events. The Umatilla County MJNHMP was approved by FEMA on August 12, 2021. The NHMP is effective August 12, 2021 to August 11, 2026.

Staff are also working with the Coos County NHMP project manager to help ensure the Coquille Indian Tribe, the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, and the Cow Creek Band of Umpqua Tribe of Indians are supported to consult with staff and engage in development of this plan, in addition to supporting Tribal hazard mitigation plan updates directly with FEMA.

Finally, staff reached out to the Confederated Tribes of the Umatilla Indians as well as the Nez Perce Tribe during the Wallowa County Natural Hazards Mitigation Plan update. While representatives of the nations have opted not to participate actively in the plan development, DLCD staff will provide a final draft NHMP update to the staff of the nations for review prior to finalizing the plan.

DLCD's Floodplain Manager has been supporting local communities that are processing floodplain development permits where members or representatives of Tribal Nations are the applicants. These are primarily for stream restoration projects and associated technical questions regarding the requirements. Nations include the Confederated Tribes of Siletz Indians and the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.

Staff also invited consultation on development of the update of the State's Natural Hazard Mitigation Plan, currently under review at FEMA.

Marian Lahav (503-689-2522 | [marian.lahav@dlcd.oregon.gov](mailto:marian.lahav@dlcd.oregon.gov)) is the DLCD contact for the Oregon Natural Hazards Mitigation Plan 2020 update and is the Natural Hazards Mitigation Planning Program Coordinator. Celinda Adair (503-930-9739 | [celinda.adair@dlcd.oregon.gov](mailto:celinda.adair@dlcd.oregon.gov)) is the State of Oregon National Flood Insurance Program (NFIP) Coordinator and is also part of the Natural Hazards Team.

### **Regional Solutions Teams**

The department participates throughout the state in Regional Solutions Teams (RST) coordinated by the Governor's office. For example, DLCD Regional Representative Lisa Phipps (503-812-5448 | [lisa.phipps@dlcd.oregon.gov](mailto:lisa.phipps@dlcd.oregon.gov)) has reached out to the Confederated Tribes of the Siletz Indians to inquire about interest participating in the Yaquina Bay Estuary Management Plan update. They also helped to connect CTSI staff to the Echo Mountain Wildfire Task Force.

## Technical Assistance Grants

The department offers grant assistance through four department subprograms; the Oregon Coastal Management Program, General Fund Grant Program, Natural Hazards Mitigation Program, and Transportation Growth Management Program.

For the 2021-2023 cycle, agency staff sent letters to each of the nine Tribes announcing it was accepting applications for General Fund Technical Assistance grants for the 2021-2023 biennium. Grant priorities for the biennium include; economic development, affordable and workforce housing, natural hazard and climate change resilience, planning for infrastructure financing, and updates to comprehensive plans and local ordinances. This year, despite individualized outreach from our regional representatives to the Tribes, the department did not receive any grant applications for the 2021-2023 biennium. The input we received from Tribal governments was that they had other priorities to work on other than long-range planning activities, and also other funding sources for their work. In contrast, for the 2019-2021 grant cycle, which concluded on June 30, 2021, the Coquille Tribe (Mith-ih-Kwuh dba TribalOne) completed a Coquille Wharf Master Plan with a \$25,000 grant from our Technical Assistance grant fund.

More information about grant opportunities can be found at <https://www.oregon.gov/lcd/About/Pages/Grants.aspx> or by contacting Community Services Division Manager Gordon Howard at (503-856-6935) | [Gordon.howard@dlcd.oregon.gov](mailto:Gordon.howard@dlcd.oregon.gov).

## Transportation and Growth Management Grants

The Transportation and Growth Management (TGM) program is a partnership between DLCD and the Oregon Department of Transportation. TGM supports community efforts to expand transportation choices. [TGM Planning Grants](#) help local governments plan for streets and land use that lead to more livable, sustainable, and economically vital communities. This planning increases opportunities for transit, walking and bicycling. The table below shows the status of TGM grants awarded to Tribes over the past five years.

Tribe	Project	\$ Authorized	Project Completion	TGM #
<b>Confederated Tribes of the Umatilla Indian Reservation</b>	<a href="#">Transportation System Update</a>	In development	2021	TBD
<b>Klamath</b>	Klamath Tribes & City of Chiloquin Bike-Pedestrian Master Plan	\$114,530	JAN 2019	4A-16
<b>Coos, Lower Umpqua and Siuslaw</b>	<a href="#">Coos Head Area Master Plan</a>	\$182,080	AUG 2018	3B-14

<b>Coquille</b>	<a href="#">Empire Comprehensive Plan</a>	\$192,895	JULY 2018	3B-15
<b>Umatilla</b>	<a href="#">Mission Community Master Plan</a>	\$195,100	MARCH 2018	5A-15
<b>Klamath</b>	<a href="#">Chiloquin Walkability Study</a>	\$18,240	APRIL 2016	C2F4-15
<i>Total Authorized Funds</i>		<i>\$702,845</i>		

Completed in March 2018, the Confederated Tribes of the Umatilla Indian Reservation’s Mission Community Master Plan will help create a “*vibrant, engaged, and multi-modal community that fosters cultural and environmental connectedness, economic vitality, health, and well-being.*” The Coquille Indian Tribe’s Empire Comprehensive Plan encompasses approximately 1,100 acres and designates land use zones and a transportation network to meet pedestrian, bicyclist, and motorist needs.

The CTCLUSI Coos Head Area Master Plan (CHAMP) envisions redevelopment of 43 acres previously under U.S. Department of Defense ownership into an integrated development that will benefit Tribal members, meet Tribal economic development objectives, and provide a mix of uses available to the greater Charleston and Coos Bay communities. During the 2021-2023 biennium, TGM is conducting a Code Assistance project to create a new zone and development standards, which must be in place to implement the CHAMP. The project is a joint effort with Coos County and CTCLUSI.

The 2016 TGM Bike-Pedestrian Master Plan award to the Klamath Tribes builds on a completed TGM Education and Outreach project focused on bicycle and pedestrian safety in the City of Chiloquin. The prior Education and Outreach project was managed by DLCD Community Assistance planner Evan Manvel (971-375-5979| [evan.manvel@dlcd.oregon.gov](mailto:evan.manvel@dlcd.oregon.gov)).

**Local Government Coordination**

The department continues to serve as a resource to local governments with questions relating to coordination with Oregon’s Tribal Nations. Department staff recognize and seek to underscore the importance of Tribal relationships with local governments including but not limited to the area of local land use regulations on fee lands.

To ensure department wide awareness, DLCD provided regular training to staff members on government-to-government relations with the iLearn on Tribal Nations the standard curriculum. Since that has been lost in the transition to Workday, DLCD continues to work with CHRO on replacement trainings. In the meantime, DLCD’s Tribal Liaison provides information for all DLCD staff.

The Coastal Program and Farm Forest Specialist are responsible for the department’s involvement in the Bureau of Indian Affairs (BIA) fee-to-trust process. To our knowledge, no fee-

to-trust transfer notices were received in 2021.

### **Other Activities of Interest**

*Land Acknowledgement, Government to Government Relations.* Particularly when in person and at regional meetings, LCDC welcomes Tribal participation at their [meetings](#) and makes an effort to coordinate with potentially interested Tribes well in advance. Developed with LCIS guidance, commissioners read a land acknowledgement statement at the beginning of commission meetings. Additionally, staff have developed a draft Land Acknowledgement Guidance document of which staff have provided to LCIS for review.

#### *Regional Housing Needs.*

The Regional Housing Needs Analysis (RHNA) is a pilot methodology intended to assess whether a statewide analysis of housing need would support more equitable, affordable, and fair housing outcomes. A priority for DLCD was assessing whether such an analysis, if implemented, could be used by Tribal Nations to better support their housing planning efforts. Through conversations with housing and planning staff at various Tribal Nations, we heard that, while measuring housing need is important, there is a clear need for direct policy action to support Tribal Nations in addressing their housing needs. We incorporated these insights into a report we delivered to the Legislature on March 1, 2021.

The Legislature directed DLCD to continue study and discussion in the 2021-23 biennium to prepare recommendations for the adoption and implementation of a modernized housing planning system, addressing affordable and market-rate housing production, into state and local planning programs. Part of this includes resources to build on the existing population forecast program, including projections for Tribal-owned lands and projections by race and ethnicity. More importantly, this process will include engagement with stakeholders across the state in the first half of 2022 to solicit feedback on what these recommendations should contain. This will include organizing small group meetings and one-on-one interviews with housing and planning staff at Tribal Nations to discuss specific policy actions we can incorporate into legislative recommendations.

*Land Use Planning Goal Review for Equity.* The Governor's Recommended Budget for the 2021-23 biennium assigned DLCD to complete a review of Oregon's 19 statewide land use planning goals for equity, environmental justice, and climate. Unfortunately, the Legislature did not fund this piece in the department's approved 2021-23 budget. Since then, DLCD included a related policy proposal on our 2021-23 Policy Agenda, acknowledged by the Land Conservation and Development Commission in November, to revise Goal 1: Citizen Involvement. This revision intends to modernize and update the goal to reflect equity and inclusion in the public process of land use decision-making. DLCD currently believes the best route to conduct this work is through a budget request for the department's 2023-25 budget. We would appreciate close coordination with Tribal nations throughout the budget development process and to conduct this work should the request be funded for the upcoming biennium.

## **Conclusion**

DLCD looks forward to continuing to strengthen its government-to-government relationships with Oregon's nine federally recognized Tribes. The department is grateful for Tribes' participation in agency programs, and for guidance received. The department will continue to strive to provide early opportunities for meaningful Tribal consultation and guidance in 2021. In 2021, the department anticipates working with representatives from and leadership of Tribal Nations on ocean and coastal issues, climate change adaptation and mitigation, hazards planning and cultural resource protection.