

Division 601 Tribal Comments Received and Department Responses

During the public comment period, the Department received comment from one of Oregon’s nine federally recognized Tribes: The Confederated Tribes of the Grand Ronde Community of Oregon. Table 1 summarizes and responds to their comments.

Table 1. Summarized Tribal Comments and Department Responses

Commenter	Comment	OWRD Response
The Confederated Tribes of the Grand Ronde Community	The Tribe is concerned that Community Engagement grantees often don’t understand the costs Tribes incur for meaningful engagement. This could lead to grantees dictating the funding level, which might result in Tribes facing out-of-pocket expenses for their contributions. The Tribe believes it should have a say in the funding to ensure it covers all costs incurred without creating financial burdens.	We acknowledge the concerns raised regarding the costs incurred by Tribes for meaningful engagement. When eligible funding is available, compensation may be available for participation in the development and implementation of community engagement plans. Specifically, compensation costs of disproportionately impacted communities are subject to the rules and guidelines associated with the funding sources. More details on the compensation of disproportionately impacted communities will be included in the best practices guidance document.
The Confederated Tribes of the Grand Ronde Community	The Tribe is dedicated to partnering on projects that provide water supply and environmental improvements for the Tribe and surrounding communities. The Tribe seeks opportunities to enhance its capacity to manage water resources.	This new authority has the potential to increase tribal engagement in community engagement funded water projects and increase tribal capacity through compensation of disproportionately impacted communities for their participation.
The Confederated Tribes of the Grand Ronde Community	The Tribe would like to be included in development of the ‘framework’ to engage communities “in order to “ensure methods to engage with Tribal Members, technical staff, elders, etc. consider cultural traditions.”	Framework development guidelines for grantees will be drafted in guidance. The Department will continue engagement with tribes and the public on development of guidance documents. Additionally, tribes will have the opportunity to be involved in the development and implementation of the community engagement plans by the community engagement plan grantees. Tribes also are encouraged to engage informally by submitting

Commenter	Comment	OWRD Response
		public comments and/or formally by requesting consultation on project applications with community engagement components.
The Confederated Tribes of the Grand Ronde Community	The Tribe believes that developing metrics to evaluate engagement success should require consensus to remain competitive for future funding opportunities.	Tribes are encouraged to apply and participate in the development and implementation of community engagement plans and provide public comments during the application notice period. Grantee plans must develop and report progress metrics to the Department. Since each plan has its own unique needs, the current evaluation metrics are to be developed by the grantee. Further guidance on metric development is being considered for inclusion in the best practices guidance document.



The Confederated Tribes of the Grand Ronde Community of Oregon

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Re: The Confederated Tribes of Grand Ronde Community of Oregon comments on Proposed Oregon State Water Resource Department Rulemaking

Dear Margo Mashkovaskaya,

Introduction

The Confederated Tribes of the Grand Ronde Community of Oregon (Tribe) appreciates the opportunity to provide comments on the proposed rulemaking for Oregon Administrative Rule (OAR) 690-601-0001 and OAR 690-601-0006. The Confederated Tribes of Grand Ronde is a federally recognized Tribe that includes more than 30 Tribes and bands from western Oregon, northern California, and southwest Washington.. Since restoration in 1983, the Tribe continues to focus on rebuilding and developing programs to meet the needs of its members, while protecting and enhancing natural resources.

The Tribe appreciates Oregon's dedication to developing a strategic framework using a collaborative approach to tackle the state's water deficits. The Tribe believes a cooperative approach to solving water conflicts in response to a changing climate and population growth is essential to protect our people and the natural environment now and future generations.

Comments: Best Practices in Community Engagement OAR Chapter 690, Division 601

The Tribe understands the purpose of the rule changes are to "support meaningful involvement of disproportionately impacted communities in the development and implementation, for water projects supported and funded by Oregon Water Resource Department." The Tribe has always been a "disproportionately impacted community" with regards to water resources, therefore we are glad to see that is defined within the new rulemaking language. Additionally, Tribes are included in the definition of "Local Government" as it relates to operating within an area

¹ 690-601-0002 Definitions. Page 2, (6) "Community Engagement Plan" means a plan to meaningfully engage and provide suitable access to decision-making processes for disproportionately impacted communities, underrepresented communities, tribal communities, and all persons regardless of race, color, national origin, or income in planning for water projects using identified best practices".

“affected by a water project and is eligible to receive grants or loans pursuant to OAR 690-600 or OAR 690-093.

The Tribe appreciates Oregon’s Water Department recognizes that meaningful engagement must include funding for policy level, technical, and cultural resource staff to attend meetings, develop comprehensive, historically accurate content, provide written and oral comments, and put forth the amount of effort necessary to reach major milestones that with consensus. However, as the rule reads, providing funding for staff engagement is an “²eligible cost” and will be reimbursed to the Community Engagement grantees. The Tribe is concerned that grantees often do not know the costs incurred by Tribes to provide meaningful engagement. As a result, this would allow grantees to dictate the level of funding to disproportionately impacted communities to provide technical input could still see Tribes incurring costs to complete this type of work. We believe the Tribe should have some input of the level of funding provided to Tribes to provide meaningful engagement, and not incur any out of pocket expenses related to this work.

The Tribe feels the rulemaking changes prescribe confirmation our contributions to planning will be a non-discretionary outcome of any Community Engagement Plans that affect the Tribe, its people and its ceded lands. Providing water supply within our ceded lands is a treaty and trust responsibility and giving Tribes a voice in water projects is critical.

The Tribe continues to pursue opportunities to enhance our capacity to develop and manage water resources. Funding to secure active engagement by Tribes to become and support water managers will improve the State’s ability to respond to the potential effects of climate change and restore ecological functions. The Tribe is dedicated to partnering on projects that result in tangible water supply and environmental improvements which contribute positively to the quality of life for the Tribe and surrounding communities. When developing a “framework” to engage communities, the Tribe requests being consulted during the development of the framework to ensure methods to engage with Tribal Members, technical staff, elders, etc. consider cultural traditions. Developing metrics to “³evaluate” engagement success should require consensus to be competitive for future funding opportunities.

Comments: Place-Based Water Planning – OAR Chapter 690-602

The Tribe supports developing water supply projects that provide water for in-stream and out-of-stream uses within a specific geographic area that do not create a deficit in any given reach within the river, reduces floodplain storage capacity, impacts drinking water quality, negatively influences aquifer recharge, or results in impacts that cannot be adequately mitigated. The Tribe, if funded to participate, would like to be on the application review team as we have both the historical and technical expertise to provide meaningful contributions to evaluating grant applications for place-based water planning projects.

² 690-601-0003 Funding for Community Engagement Plans Page 3, (4) (B) “Eligible costs and activities that may be reimbursable, if conditions of the granting agreements are met, include but are not limited to, design and facilitation of meetings and eligible associated costs, development and distribution of outreach and meeting materials, and compensation of disproportionately impacted communities for meaningful involvement in community engagement opportunities.”

³ 690-601-0004 Best Practices of Water Project for use in Community Engagement Page 4 (2) (c) “A set of metrics and timelines to evaluate the community engagement plan progress and success in increasing meaningful participation of disproportionately impacted community in water projects.”

Summary

The Tribe would like to increase our capacity to influence water management in the State of Oregon. We agree with taking a “Shared Governance Agreement” approach when commitments made to the Tribe through trust and Treaty responsibilities are incorporated as “actionable” project elements. We remain committed to working with all levels of governments, NGOs and interested stakeholder groups to increase opportunity to develop, manage and protect water resources on Oregon. Having a Tribal voice in decision-making is critical and we commend the State of Oregon for developing administrative rules that require our contribution at the planning stage. Requiring an integrated approach with Tribal decision-making playing a pivotal role to move forward with identifying projects to implement in the future is a step in the right direction.

We recommend that the Oregon Water Resources Department work with the Tribe to ensure Community Engagement Plans and Place-Based Water Planning incorporate Tribal trust and treaty responsibilities and provide a funding mechanism so our members and staff can provide meaningful engagement and native knowledge.

Sincerely,

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