



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



2022 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 2022. 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 customized support and 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 ten (10) rulemaking and major policy initiatives and the associated statewide land use planning goal or administrative rule:

- Cultural Resources and Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces
- Federal Consistency Consultation Processes in the Coastal Zone
- DLCD's 2021-2023 Policy Agenda Update (includes rulemaking for Goal 5 and Cultural Resources)
- Federal Consistency Protocols
- Coastal Access
- Offshore Wind Energy (with the Bureau of Ocean and Energy Management)
- Climate Change Vulnerability Assessment
- Redocumentations on Land Use and Wildfire
- Updates to Oregon's Territorial Sea Plan Part Three: Rocky Habitat Proposal Review Process with respect to Goal 19: Ocean Resources
- Updates to Oregon's Territorial Sea Plan Part Four: Undersea Cables

Key Contacts and Policies

The department's primary and alternate key contacts are responsible for ensuring 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

Brenda Ortigoza Bateman, Ph.D., Director
971-701-0213

Brenda.O.bateman@dlcd.oregon.gov

Alternate Key Contact

Kirstin Greene, AICP, Deputy Director
971-702-1585

kirstin.greene@dlcd.oregon.gov

Deputy Director Kirstin Greene and other members of the agency Tribal Liaison team were pleased to attend the 2022 Annual Tribal-State Government-to-Government Summit in Coos Bay at the Three Rivers Resort and Casino, hosted by the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians on October 4, 2022. Though registered, Director Bateman had been called to jury duty and was unable to attend.

Kirstin and South Coast Regional Representative Hui Rodomsky served as DLCD's liaisons for the Cultural Resources Cluster Work Group in 2022. 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 "Local and Tribal Government Communication Policy" (2006) and "Policy on Government to Government Relations with Oregon Tribes" (2007) are posted on [DLCD's Tribal Relations webpage](#) 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 review authority. The Program includes 10 networked state agencies and 40 local jurisdictions in the coastal zone. OCMP staff encourage coordination with all Tribes on programmatic initiatives and strategic planning.

As a matter of practice, department staff members 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, was placed with the OCMP this past year 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, former Tribal Historic Preservation Officer for the Coquille Indian Tribe; Robin Harkins, Director of Natural Resources for the Coquille Indian Tribe; and Margaret Corvi, consultant with the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw, acted as advisors for the project team.

In addition to formalizing coordination and consultation procedures, Kyle also provided a set of key recommendations for the department to consider:

- Utilize DLCD Regional Representatives as local tribal liaisons
- Develop a policy option package for a Cultural Resource Specialist or

- Archaeologist to support cultural resource awareness initiatives and provide local government assistance
- Establish an annual cycle of notification and coordination, tied to Policy Agenda formulation
- Standardize staff training requirements
- Continue general Tribal Liaison Program follow-up

The Director's office sent invitations to request consultation on the project initially sent to Tribes' leadership and representatives in October 2021. OCMP staff held a workshop with interested representatives in February 2022 to share more information about the project, the federal consistency review authority and process, and the OCMP's projects and activities. Tribal staff from the Confederated Tribes of Siletz Indians; the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians; The Cow Creek Band of Umpqua Indians; Coquille Indian Tribe; Confederated Tribes of Grand Ronde; Confederated Tribes of the Warm Springs Reservation; and Burns Paiute Tribe attended.

The draft procedures were distributed to representatives in October 2022 with a request for feedback, confirmation of best contacts, and extent of interest in reviews (i.e., all reviews or geographic restrictions). With the implementation of these procedures, the OCMP is committing to notify Tribes upon initiation of a federal consistency review, request comment, and invite further coordination and/ or consultation, if requested by the interested Tribe.

Additionally, DLCD staff worked with the State Historic Preservation Office (SHPO) and a consultant for the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw to develop a proposal to include additional policies related to archaeological resource and Native American grave protection in federal consistency reviews (a program change). Letters inviting consultation about this action were sent to leadership and representatives of all nine Tribes in July 2022. The program change was approved by NOAA in October. Applicants for federal consistency review are now required to review these policies and rules and describe how their project is compliant or consistent with the policies. Through this coordination with applicants, the OCMP intends to raise awareness of SHPO and LCIS materials and guidance on inadvertent discovery and archaeological site protection and the state's commitment to protection of these culturally significant resources.

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 Tribes 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.

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.

In November 2021, LCDCs adopted a policy agenda for the 2021-2023 biennium. Rule writing for Goal 5 specific to cultural areas is included on the agenda and has initiated, starting with scoping meetings with representatives of Oregon Tribes. That work is underway, starting with a Work Group of representatives of Tribal nations. All nine Tribes were invited; eight are participating at this time.

The topic of offshore wind energy development, though likely to occur outside of state waters, has been of great interest to the Coquille Indian Tribe and Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians. In May, the Marine Affairs Coordinator, Coastal Program Manager, Deputy Director, and the South Coast Regional Representative participated in tri-lateral consultations with the federal agency responsible for administering the leasing process, the Bureau of Ocean Energy Management, and the Coquille and CTCLUSI (in separate meetings). The Marine Affairs Coordinator, Andy Lanier, will continue to serve as the staff-to-staff point of contact for the offshore wind energy leasing process. Ongoing work related to understanding viewshed impacts and suitability modeling within the offshore Call Areas is underway. Wind Energy Areas will be selected in spring of 2023, with potential lease sales scheduled for early 2024.

Lisa Phipps (503-812-5448 | lisa.phipps@dlcd.oregon.gov and Andy Lanier (503-206-2291 | andy.lanier@dlcd.oregon.gov) are the DLCD contacts for regional ocean issues. Both 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. Amanda.punton@dlcd.oregon.gov) is the contact for Goal 5 issues, and Jeff Burrigh is the contact for federal consistency in the coastal zone jeff.d.burrigh@dlcd.oregon.gov, (503) 991-8479.

Natural Hazards Planning

DLCD natural hazards planners are working to engage Tribal Nations in regional Natural Hazards Mitigation Plan (NHMP) projects. Specific initiatives follow.

The department applied for and received a grant from the Federal Emergency Management Agency (FEMA) to prepare a NHMP for the Confederated Tribes of Warm Springs. Work on the plan will begin in 2023, and the plan will be completed in 2024. 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. The draft plan is under review, and the project will be completed in 2023.

The department invited consultation with Oregon's nine federally recognized Tribes while preparing a report to the legislature with recommendations on using land use planning to reduce the risk of wildfires. Staff followed the letter by meetings with representatives who were interested in engaging at a staff-to-staff level. These included the Coquille Indian Tribe and the Cow Creek Band of the Umpqua Tribe of Indians. DLCD staff kept Tribal staff representatives apprised of major milestones throughout the development of the recommendations, including

inviting review and comments on the draft land use recommendations. Issues raised by Tribal representatives in these discussions and follow up engagement include:

- The importance of protecting and managing cultural resource sites not only on Tribal lands but throughout ancestral land, especially in emergency situations and in planning processes. There is currently a lack of coordination and notification by emergency managers with the Tribes.
- DLCDC should complete its Goal 5 rulemaking process to help inform local jurisdictions about how to identify and coordinate on protecting and managing resources which might be damaged by wildfire (and related suppression activities).
- Tribal members who live in the Wildland Urban Interface (WUI) lost homes in 2019-2020 and were displaced or impacted by smoke and air quality hazards.
- Access to resources and information to encourage people to do clearing for defensible space.
- Safe evacuation concerns in areas of limited transportation access.
- Interest in long-term planning and impacts to land that the Tribes may want to use down the road.
- Any change in land use that might occur on land adjacent to Tribal land that might impact Tribal land, especially land held in trust.
- Ensuring that lands that come into development are being planned to reduce wildfire risk.
- Interest in access to and integration of Geographic Information System (GIS) data into Tribal GIS system. Additionally, access to simplified risk maps and data equity are important.

Matt Crall (503-798-6419, matt.crall@dlcd.oregon.gov) is the Planning Services Division Manager. His team includes the natural hazards mitigation planning team. *Please feel free to contact Matt directly with any questions.*

Regional Solutions Teams

On November 17 and 18, 2022, the Land Conservation and Development Commission met in Lincoln City and held a roundtable discussion to hear from local and regional representatives on various issues. Invited as the Tribal Representative on the Ocean Policy Advisory Council, Tribal Consultant Margaret Corvi joined the South Valley / Mid-Coast Regional Solutions Team and other community leaders in a roundtable with the Commission. In addition to the group touching upon important regional community and economic development efforts, participants discussed what the Department of Land Conservation and Development does well and where there are challenges with the Oregon land use system. This latter conversation is a part of the work being done in advance of the 50-year anniversary of Senate Bill 100 in May 2023.

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. We provide information to representatives of all nine Tribes on this funding availability. 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.

Rural Transportation Equity

At the request of the Oregon Racial Justice Council, DLCD launched the Rural Transportation Equity program with advice and collaboration from the Oregon Department of Transportation. The program aims to support underserved communities, in rural areas, gain access to critical services and destinations by identifying and pursuing transportation options like biking, walking and public transportation.

Within this program and with grant support, the Confederated Tribes of Grand Ronde are pursuing work related to multimodal connectivity among facilities located on the Tribe's land holdings, in stride with the Tribe's recently adopted [shawash-ili?i 2033-nsayka k'hapa atqi \(Grand Ronde 2033–Our Future\)](#) Community Development Plan Adopted in November of 2021, and ongoing Long Range Transportation Planning. The project work focuses on engaging Tribal members in dialogue related to transportation access, existing challenges, and active transportation opportunities through a two-tiered survey model and focus group interviews. Project team members, including Akana (Native-owned Planning and Professional Services firm) and Consor Strategic Planning & Communications, hope to incorporate feedback and findings into planning for future transportation system investments. This includes inventory work to add active transportation connectivity opportunity corridors to the Tribe's Long Range Transportation Plan, as well as position the Confederated Tribes of Grand Ronde competitively for future funding opportunities from State and Federal partners.

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 at all-staff meetings, at orientations, on Indigenous People's Day and within Workday.

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 2022.

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 the updated land acknowledgement statement at the beginning of commission meetings.

Oregon Housing Needs Analysis (OHNA)

The Oregon Housing Needs Analysis (OHNA) 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 included engagement with stakeholders across the state to solicit feedback on what these recommendations should contain. This included organizing small group meetings and one-on-one interviews with housing and planning staff at Tribal Nations to discuss specific policy actions to incorporate with the legislative recommendations [report](#).

Recognizing tribal sovereignty, the OHNA would not directly implicate the work of Tribal planners and practitioners, as they are not subject to the statewide land use planning goals. These discussions, and resultant recommendations, are intended to highlight the housing needs of the nine federally recognized tribes and policy work needed to address them. These discussions resulted in four follow-up policy actions that Tribal housing and planning staff raised as warranting legislative attention. These actions are outlined in [Appendix B](#) (p. 9-10) of the recommendations report. These policy actions, while not directly tied to the implementation of an OHNA, represent substantial priorities to encourage housing production and affordability to serve members of the nine federally recognized Tribes. We recommend incorporating these recommendations into a state-led housing production strategy (see Recommendation 3.2 of the main report), where a coordinated state administrative entity (see Recommendation 3.1) continues implementation on critical areas of follow-up housing policy work. To do this, the Legislature will need to establish this entity and a statewide housing production strategy.

Relationship Building - DLCD Director Bateman South Coast Tour of Curry and Coos Counties

In mid-December 2022, Director Brenda Bateman and staff from the Oregon Coastal Management Program conducted in-person listening sessions in Brookings, Gold Beach, Port Orford, Coquille, North Bend and Coos Bay with local government partners. As part of the tour, Director Bateman made her inaugural visits to the Coquille Indian Tribe in North Bend and the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians in Coos Bay. Assistant Executive Director of Tribal Programs and Services Bridgett Wheeler and Assistant Executive Director of Natural Resources John Ogan of the Coquille Indian Tribe hosted Director Bateman and DLCD staff for a lunch meeting at the Mill Casino and Hotel in North Bend. Chief Doc Slyter and Tribal staff of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians welcomed Director Bateman and DLCD staff in the Tribes' traditional plank house and acquainted Director Bateman with locations of cultural significance on a site tour. Staff are very appreciative of this time spent together.

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 2023. In 2023, the department anticipates working with representatives from and leadership of Tribal Nations on the Goal 5 Rulemaking for Cultural Areas, ocean and coastal issues, climate change adaptation and mitigation, hazards planning, and guidance for cultural resource protection.