

**Oregon Department of Transportation**  
**Tribal Relations Best Management Practices**

**Introduction**

The following guidance is a companion document (ie, implementing guidance) to ODOT's [Policy INT 13](#) in response to the state's policy on Government-to-Government consultation with federally recognized tribes under Oregon Revised Statute (ORS 182). ODOT's policy states "It is the policy of the Department, pursuant to Oregon Revised Statutes 182.162 et. seq., to promote and enhance government-to-government relations between the Department and the Federally recognized American Indian Tribes in Oregon through programs that include tribes in the development and implementation of transportation projects and other activities which may affect Tribal lands, resources, or interests." This document is for all ODOT employees working with tribes, those planning to work with tribes, and whose work may impact tribes. As implementing guidance to ODOT Policy INT 13, it should be applied broadly when managers and staff undertake tribal coordination and should be shared with new employees who interact with tribes during the course of their employment.

Individual division/branch/unit tribal consultation guidance must be consistent with statewide best management practices {BMPs} and reviewed regularly by the ODOT Tribal Relations Manager.

The nine federally recognized tribes in Oregon include:

Burns Paiute Tribe (BPT)

Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians (CTCLUSI)

Confederated Tribes of the Grand Ronde Community of Oregon (CTGRCO)

Confederated Tribes of Siletz Indians (CTSI)

Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO)

Coquille Indian Tribe (CIT)

Cow Creek Band of Umpqua Tribe of Indians (CCBUTI)

The Klamath Tribes (KT)

ODOT projects are frequently funded in part with federal dollars from the Federal Highway Administration (FHWA), and occasionally, Federal Rail Administration (FRA) and Federal Transit Administration (FTA). As such, our tribal consultation requirements may extend to any federally recognized tribes "that may attach religious and cultural significance to historic

properties that may be affected by an undertaking” (36 CFR 800). This requirement extends beyond the borders of Oregon into our neighboring states, where consultation is extended to those additional federally recognized tribes such as the:

- Confederated Tribes and Bands of the Yakama Nation
- Confederated Tribes of the Colville Reservation
- Cowlitz Indian Tribe
- Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation
- Fort Bidwell Indian Community of the Fort Bidwell Reservation of California
- Nez Perce Tribe
- Tolowa Dee-ni’ Nation

A note about non-federally recognized tribes: There are non-federally recognized tribes within the state of Oregon- The Chinook Nation in the northwest and the Latgawa in the southwest. Non-federally recognized tribes do not have the same status or relationship with the federal government. However, there are times when we coordinate with them especially with regards to projects within and around their traditional homelands. (More on this in section 3 (Consultation Overview)).

### Best Management Practices (Guidance)

The following Best Management Practices have been developed from existing laws and regulations, other guidance documents and years of experience working with our tribal partners. We strongly encourage ODOT employees to become familiar with this material.

#### 1) A Word About Confidentiality

Some information can be sensitive and may be confidential, including, but not limited to, archaeological site locations, traditional cultural properties (TCPs), sacred plants and places, locations that hold human remains, etc. The location of archaeological sites are exempt from public disclosure under ORS 192.501. Federal law in 16 USC 470hh also protects the location and the character/nature of archaeological sites and TCPs. Tribes might share what they consider to be sensitive information, such as cultural practice or sacred places that only elders or tribal members are privy to. If a tribe requests to keep certain information confidential, make sure that information is not shared broadly within or outside the agency and at no time should this type of information be shared with the public or media. However, it is important to note that this information may not be eligible for protections from public disclosure under the law, so use discretion in what is documented in writing. If sensitive information must be written down, you should use watermarks (confidential) and keep the information in a secure location.

Freedom of Information Act (FOIA) contains several exemptions - one being the sharing of any information “pertaining to the nature and location of

archaeological sites” (16 U.S.C. 470hh); this means any and all information related to archaeological sites must be withheld from public records requests. This means withholding this sensitive information from public requests of any kind, as well as from sharing with the media or disclosing to others not involved in agency work.

ORS 192.345 Records conditionally exempt from disclosure-

This exempts any “information concerning the location of archaeological sites or objects as these terms are defined ORS 358.905...” Again, any and all archaeological information is exempt from public disclosure. Tribes have a deeply personal, spiritual and cultural relationship with archaeological sites, so it is important that we respect and protect these locations.

## 2) Building Relationships

- (a) How to start, recommendations, etc.: The number one factor in successful tribal relations work is relationships. Building relationships takes time. There is no instant formula or “cookie-cutter” approach. It takes commitment, consistency, and follow-through. If you work in an ODOT region and you need to work with tribal partners on a project, program, etc., become familiar with the regional tribes and work with your regional management staff or the ODOT Archaeologist/Tribal Liaisons. Determine if there are regional staff or managers that already work with tribes, and request to attend meetings to get introduced to tribal contacts, begin some dialog and build a relationship.
  - i. Use the existing framework or structure and lean on folks that already have relationships is a good jumping off point.
  - ii. If you don’t have access to existing relationships, then try the following:
    - Contact the ODOT Tribal Relations Manager, and/or regional Tribal Liaisons, and find out the correct tribes. Depending on the need or consultation desire, we might redirect you to the Legislative Commission on Indian Services (LCIS); but start internally first.
    - Once you have the correct tribes, work with tribal staff to set up a meeting and go over your program, policy, etc., a good step in building a relationship. Find out if you need to send formal letters to the tribal Chairperson to establish regular meetings (see below for information on how to initiate formal consultation). When seeking advice and feedback on policy, programs, or ideas, always follow up on action items, or additional requests. Don’t let things sit, address them in a timely fashion.
- (b) Roles & Responsibilities (staff vs managers, 3<sup>rd</sup> parties like consultants, etc): There are many parts to play when it comes to tribal coordination and consultation. Each division, branch, section, and unit is different and all of our staff and managers that work with tribes are key in building and maintaining strong relationships. Some examples include: Area Managers charged with STIP coordination and maintaining good tribal relationships through formal

consultation or our Archaeologists/Tribal Liaisons, or regional transit coordinators who coordinate with tribes on a more frequent basis and also perform tribal consultation tasks with tribes. You will see similar patterns and relationships across the agency. Cities and counties should cultivate their own relationship with tribes, although, if we partner on a particular project or action, our staff may assist with or tribal consultation activities. Below is a list of ODOT groups who frequently work with tribes. This is not an exhaustive list and can be amended in the future.

- i. The ODOT Tribal Relations Manager manages the statewide program and is consulted on various issues as they might relate to our projects and programs. If you are meeting with tribes, a courtesy email or phone call to the Tribal Relations Manager would help with consistency. If you are meeting with tribal councils, the Tribal Relations Manager should receive an invitation. If you are writing formal letters to a tribal chairperson, the Tribal Relations Manager should be QCing the letters for consistency before they are sent and get CC'd on the outgoing correspondence. The Tribal Relations Manager will also help coordinate training needs, etc. The Tribal Relations Manager works closely with the Agency Federal Affairs Advisor/Tribal Liaison (this position works across the agency on tribal relations matters as needed) as well as the Interstate Bridge Tribal Liaison on various program and project level issues.
- ii. Region & Area Managers- Continue to build strong and meaningful relationships with tribes in their region. Are responsible for various planning and safety meetings, as well as annual government to government meetings should they be requested. Example: Region 3 meets annually with several southwest tribes to discuss everything from planning, grants, to future maintenance work, etc. These meetings are facilitated via the Region Manager.
- iii. Tribal Liaisons/Archaeologists- ODOT Archaeologist/Tribal Liaisons work with tribes on a daily basis through project delivery and construction. They are responsible for maintaining strong relationships with tribes, organizing and facilitating tribal meetings with tribal staff, tribal committees and tribal councils as needed. They are frequently called upon to troubleshoot environmental and cultural resource issues, provide tribal relations trainings, and coordinate other tribal outreach efforts.
- iv. Regional Transit Coordinators- Routinely work with tribes on a daily basis. They are responsible for maintaining strong relationships with tribal contacts, organizing and facilitating meetings as needed, and communicating with tribes on grant and funding opportunities in addition to troubleshooting any issues.
- v. Planners- Responsible for complying with Planning's Tribal Consultation

Plan, staying in regular communication with tribes on various long term and regional plans; attending tribal meetings with Area Managers and others as needed.

- vi. Civil Rights Coordinators- Routinely work with tribes on TERO. See TERO section.
- vii. Others: Many others within the agency (such as DMV staff, District Maintenance Managers, etc) might outreach or work with tribes in various capacities. This might not be on a daily basis, but their work is just as important and goes to helping maintain strong tribal relations.

### 3) Consultation Overview

- a. Notification vs. Coordination vs. Consultation: There is a distinct difference between notification, coordination, and consultation and how this works with our tribal outreach at ODOT.
  - i. Notification might be a simple letter or email informing the tribes of a pending outcome or initiative, etc.; this is NOT consultation.
  - ii. Coordination implies that there is give and take. Desire to not only inform but to solicit feedback and conversation and consider new outcomes. Some examples of this occur on our STIP and planning projects with coordinated field visit efforts and coordination with tribal staff or tribal council on needs, concerns or issues to help our projects be successful.
  - iii. Consultation, on the other hand, is a formal government to government process. This is achieved through face-to-face meetings, virtual if needed, and is typically done at the highest level of government through a distinct process. ODOT has many examples of tribal consultation under way with all of our consulting tribes. It is important to note that each tribe may have a different process for consultation, and typically, tribes will inform us how they wish to be consulted.
- b. How to identify appropriate tribes (in state vs. out of state, etc.):
  - (i) If you work for a region in project delivery, then your first conversation might be with the ODOT Archaeologist/Tribal Liaison. If you work in region on Transit or Planning projects/program, you can contact your regional transit coordinator or planner. Always contact Region Management, archaeologist/tribal liaison, transit coordinator, etc to ensure we are consulting with the appropriate tribes. Another consideration is whether to include non- federally recognized tribes in your consultation efforts. Tribes like the Chinook Nation in the northwest part of the state and Latgawa in the southwest often receive notifications from ODOT and offers to participate in various projects depending on location. If there is ever a question around which tribes to coordinate or consult with, contact the ODOT Tribal Relations Manager. Also, if you have a state funded action and you are wondering if we should be consulting with out of state

tribes, please contact the ODOT Tribal Relations Manager, and /or Region/Project Tribal Liaison.

- (ii) If you're not with a region, or would like further assistance, then you can contact the ODOT Tribal Relations Manager and have a conversation about your question, initiative, and what tribal outreach might look like. In certain cases, we may encourage contact with the LCIS, however, LCIS is charged with advocating for the nine federally recognized tribes in Oregon and ODOT typically coordinates with tribes well beyond our borders. So, while LCIS can be very helpful, always check the recommendations with the ODOT Tribal Relations Manager before contacting LCIS.
- (iii) Working with other tribally affiliated groups like the Columbia River Intertribal Fish Commission (CRITFC) for our projects or various initiatives along the Columbia River, is very common. Contact your region Archaeologist/Tribal Liaison to identify if CRITFC outreach is necessary. As of right now, this is the only tribal interest/co-managing agency we work with on a regular basis. If you have questions about another group, please contact the ODOT Tribal Relations Manager. Note that coordination with these groups is not a substitute for tribal consultation.

- c. Initiating Consultation- Initiation of formal consultation should be accomplished in coordination with the ODOT Tribal Relations Manager and/or ODOT Archaeologist/Tribal Liaison, Transit Coordinators, Area Manager, etc., depending on your topic. Address tribes with the same respect you would afford a senator, or other high ranking governmental official - it is important and expected. Address letters using the example in Appendix A. Use the same salutations in email correspondence, too. If you address letters to a Tribal Chairperson, please coordinate a review with the ODOT Tribal Relations Manager, and also include them on the CC. Ensuring a QC opportunity minimizes risk and damage to our relationships. Track your correspondence. If you receive a formal letter back, then we must respond in turn. Again, allow for review time by the ODOT Tribal Relations Manager ahead of distribution. The ODOT Tribal Relations Manager can also help with email distributions and notifications for any initiative, action or other information that needs to be shared. If your program maintains a list of contacts, please coordinate with the ODOT Tribal Relations Manager to ensure the most current information.
- d. Consultation Meetings- It's important that you consider the meeting content, attendance, location, etiquette, and much more when you plan meetings.
  - i. Face to face meetings are always recommended when possible. Offer to meet at tribal offices or closer to their location. Face to face meetings help relationship building and provide an educational opportunity. Meeting location is important. If you pick a location too far for tribal attendees, it might be difficult to meet as you need, especially if you are expecting elders. Also, consider weather conditions when scheduling meetings or

events, with a wide variety of environmental conditions across the state, road conditions may affect whether a tribe can attend. Once you have a date, send an outlook appointment. You should invite your Tribal Liaison and/or the ODOT Tribal Relations Manager if you are planning to hold an inter-tribal meeting. They can help troubleshoot meeting challenges if needed and are very familiar with many of the tribal government representatives statewide.

- ii. Virtual Meetings- Much of what we noted above applies to virtual meetings as well. Be sure to offer a non-internet based, phone call in option for virtual meetings to ensure equitable access to virtual meetings. If you are working with one tribe, we suggest you check with them to make sure a virtual meeting is appropriate. If you are working with multiple tribes and you're looking to host an inter-tribal meeting, virtual meetings are a great option to ensure participation and accommodate schedules.
- iii. Regularly scheduled meetings- Many regions host regular meetings with tribes. As an example, ODOTs Archaeologist/Tribal Liaisons meet with the nine federally recognized tribes in Oregon on a regular basis to discuss projects and various environmental program developments. Some ODOT Area Managers hold government-to-government meetings on a regular basis. Again, such meetings help maintain and strengthen relationships.
- iv. Tribal Council Meetings- ODOT will attend these formal meetings to address major initiatives, program changes, or to discuss projects. If you are scheduled to meet with tribal council, please let the ODOT Tribal Relations Manager know. Often, depending on the topic we will request that the ODOT Director be present for tribal council meetings to honor the government-to-government relationship we have with the tribe. You should prepare in advance for these meetings, taking time to discuss content, what you will share visually, any handouts, ppts, etc and how you will handle questions. Often times, tribal council members are unfamiliar with the topics, so additional information will always help. Get your materials to the tribal council secretary well in advance of the meeting so your materials can be shared properly. Be aware that any materials may be shared with the entire tribal membership and may be subject to public dissemination, unless the meeting is in closed chambers. Wait until you are called on to start your presentation. Be respectful. Address the Chair. Do not interrupt, ask permission to speak- exp: "Mister Chairman if I may...".
- v. General meeting etiquette- Consider timing. Be thoughtful about when you set meetings, they may conflict with traditional ceremonies or events. Take meeting minutes and distribute after the meeting. Always work with tribal partners on setting the agenda. Note who you are meeting with. Is it a committee? Individual? Council? Each will have different protocols. If you are attending a council meeting, you might not be the only topic on

the agenda, so be sure to clarify in advance. Be patient. There might be long pauses in conversation, so be sure to give space for reflection and thought and do not talk over tribal representatives. Listen- some information may be passed through stories or other methods. If you aren't clear on the communication, ask questions. It's not uncommon for tribes to offer a prayer, invocation, or blessing before a meeting. Be patient, respectful and make time for this opportunity. Be comfortable with silence and allow time for responses to questions you pose.

- vi. Notetaking: Plan to have a notetaker at all meetings and send out notes to attendees after the meeting. This helps to ensure all participants have the same information, supports in the administrative record for requests and concerns, and can be a useful tool for those that were not able to participate but should have access to the information.
  - e. Things to avoid: Do not use the terms stakeholder or public when referring to tribes in meetings or in written documents/correspondence. Tribes are sovereign nations and consultation happens between government-to-government entities, in this case between the State and the Tribe. They are not considered the "public." Instead, they are afforded individual consultation which can include early reviews on materials, extended consultation timelines, etc. Thank them for their time and offer contacts so representatives can follow up if questions arise later.
  - f. Tribal Consultation Plans- Developing and adopting a tribal consultation plan can be an efficient and effective way to ensure your program or project is coordinating with tribes. Please visit the ODOT Tribal Relations page for examples. If you would like to develop a plan for your program please be sure to coordinate with the ODOT Tribal Relations Manager or your Tribal Liaison. Tribal Consultation Plans need to be developed and shared with tribes and other agency staff, to get feedback and ensure agreement.
  - g. When a tribe does not respond- At times, it can be a challenge to get a timely response to your request from a tribe. If you sent a formal letter directly to the tribal chairperson and copied staff, following up with a phone call, voicemail, or email to check-in is a good way to solicit a response from a tribe that may not respond promptly. When a response is not received, be sure to take down notes and log the date and time for all your outreach efforts. Also check to make sure your contacts are correct. Contact your region Management, Archaeologist/Tribal Liaison or the ODOT Tribal Relations Manager if you're not sure or have concerns. There may be other ways to get your message out; we could leverage LCIS or the LCIS workgroups and clusters depending on the topic. Regardless, trying to communicate about your program or project is always a good thing.
- 4) Partnerships & Collaboration
- a. ODOT examples of partnership agreements, committees, working groups and more which help promote positive collaboration-
    - i. *Intergovernmental Agreements (IGAs)* - ODOT maintains a number of



IGAs with tribes for various services such as cultural resource support. Such agreements invite tribes to assist with project development and construction related tasks. Cultural Resources IGAs are primarily administered by the ODOT Environmental Section but may also be through individual programs.

- ii. Grants - ODOT offers a number of grants accessible to tribes. Some the tribe must apply for directly and ODOT can be a resource; we are working on a list of available grants for tribes which we will link up to our ODOT homepage.
  - iii. Working groups - If you have an initiative that might be of interest to tribes, or something you'd like tribal input, arrange a working group to help with development and implementation of the initiative. Some examples- When ODOT was working on our staging and disposal pilot project, we partnered with tribes to discuss risk, process, and implementation.
  - iv. Committees- ODOT frequently invites tribes to participate in various committees to address issues, develop guidance and procedures and advise on other matters. Involving tribes in these efforts up front and often helps ensure they are part of the process.
  - v. Tribal Employment Rights Office (TERO) program is administered through the ODOT Office of Equity and Civil Rights. ODOT maintains TERO agreements with three Oregon tribes (CTUIR, CTWSRO, and CTGRCO). For more information please contact: ODOT Office of Civil Rights Manager, or your region civil rights/TERO contact.
  - vi. Trainings-ODOT partners with tribes on trainings. ODOT staff occasionally seek tribal input on trainings, or we invite tribes to speak at ODOT sponsored trainings or become co-presenters. This makes for a richer experience for everyone. Trainings could include specific topics (ex: culturally modified tree video) or more general topics (ex: ODOT Tribal Relations video series, or ODOT's Tribal Summit on Natural and Cultural Resources). ODOT representatives have participated on various tribal training programs as well. This is a good way to engage with a tribe and participate in their programs. If you need training in tribal relations work, or have training suggestions, contact the ODOT Tribal Relations Manager.
- b. Outreach to Tribal Membership- Consultation and coordination occurs between staff and elected officials representation the Tribal governments. Often, however, there may be information that may be important to message to the tribal public (Tribal Members and their families/households) as well. This can include seeking input in draft legislation or project impacts during the open comment period, recruiting for a "member at large" representative for a board or committee, or simply to inform the tribal public on something that may be important to their community. Outreach opportunities may include articles in tribal newsletters, fliers for community message boards, or offering to host a community forum on


evenings or weekends. Coordinate these opportunities with the appropriate staff at the tribe and include your Tribal Liaison and/or the ODOT Tribal Relations Manager in these planning efforts.

- c. Land Acknowledgments- In 2022 ODOT developed a webinar and internal guidance based on LCIS recommendation. Please visit the ODOT tribal relations page [Tribal Affairs - Home \(sharepoint.com\)](#) for information and be sure to watch the webinar posted there.
- 5) G2G report and tracking actions
- a. ODOT, like all Oregon state agencies, is required to submit an annual report to the LCIS regarding all of our outreach and coordination with the nine federally recognized tribes in Oregon. This report is due every December and the ODOT Tribal Relations Manager will send an email in early October soliciting updates. We suggest you track your tribal coordination efforts throughout the year to help with reporting. Please utilize your region Management and Archaeologist/Tribal Liaison to assist in report compilation. The following guidelines may be helpful:
    - i) The annual report is only for the calendar year. Please do not report items that were completed or conducted in prior years unless something relevant occurred in the current year.
    - ii) Remember, this report covers *all* of ODOT. We are interested in new initiatives, meetings, new agreements (Memorandum of Agreement or Understanding, or Intergovernmental Agreement (MOAs/MOUs/IGAs) or additional tribal coordination activities.
    - iii) Tribes are the intended audience so we don't need to report background information on the tribes, their internal tribal staffing changes, or on the geographic situations of the various reservations.
    - iv) While we are often required by federal law to work with tribes out of state, *please don't* report those interactions in this report. This report is required by state law and requires reporting only on the nine federally recognized tribes in Oregon.
    - v) Please only report on ODOT actions. If tribes have completed a project or interacted with local or federal governments that didn't include ODOT, don't report it. We're only reporting on ODOT's interactions with tribes.
    - vi) When referencing a highway facility, please use this format: OR 99W, OR 205, etc. for Oregon Highways. US 95, US 20, etc. for US highways. Please don't use Highway 20 or Hwy 20.
    - vii) Please do not use abbreviations or acronyms. In keeping with the state's plain language laws, please use the full names of ODOT divisions and offices, etc. STIF, TSP, TGM, ACT, COG, IAMP, etc. are commonly used by ODOT personnel but are not widely understood by the general public – even if they're identified initially within the text of the report. ODOT is the only acceptable acronym for this report.
    - viii) Similarly, please only use the full names of tribes. Even if

it's a very long name, please resist the temptation to abbreviate. Also, there are many correct and incorrect variations of tribe names. Please use tribal names as they are shown in the list at the top of this document. Do not shorten names or assume there is some appropriate abbreviation. There seems to be particular confusion about the Confederated Tribes of the Warm Springs Reservation of Oregon and the Confederated Tribes of the Grand Ronde Community of Oregon. Please take note if either of these tribes appear in your section of the report.

6) Other resources- several ODOT divisions have tribal consultation guidance specific to their programs.

a. ODOT Resources:

i.  Transit: Check with transit staff for access

ii. Planning: [Tribal Consultation Process For Planning And STIP.pdf \(oregon.gov\)](https://www.oregon.gov/odot/tribal/consultation/tribal_consultation_process_for_planning_and_stip.pdf)

iii. Maintenance & Operations:  [Tribal Relationships and Highway Maintenance and Operations](#)

iv. Environmental (Cultural Resources Section 106 Programmatic Agreement)

b. LCIS maintains a great webpage with many links to tribes and other information.

The agency is a liaison between state agencies and tribes and administers five cluster/working groups per ORS 182 requirements. Culture Cluster, Natural Resources Working Group, Education Cluster, Public Safety Cluster, Economics, Health and Human Services.

[Commission on Indian Services home \(oregonlegislature.gov\)](https://www.oregonlegislature.gov/commission-on-indian-services/)

c. BIA: the Bureau of Indian Affairs website is a good place to check on current tribal leadership via their tribal leadership directory.

[Tribal Leaders Directory | Indian Affairs \(bia.gov\)](https://www.bia.gov/tribal-leaders-directory)

d. Tribal Websites: Each of the nine tribes in Oregon maintains a website. All of them contain a wealth of information that might be useful for your work and general background information. Links to each can be found on the LCIS website

e. US DOT & FHWA Website & Links: Add in info here with Tribal Consultation Orders, etc- As noted earlier, ODOT does a lot of work on behalf of FHWA.

There are many laws, orders, and guidance, however, here are a few to note:

[Department of Transportation Tribal Consultation Order \(DOT 5301.1A\) | US Department of Transportation](#)

f. Recommended readings:

[The First Oregonians](#)

[The Coming of the Spirit of Pestilence: Introduced Infectious Diseases and Population Decline among Northwest Indians, 1774-1874](#)

[The People Are Dancing Again: The History of the Siletz Tribe of Western Oregon](#)

[Indian No More](#)

[Chinookan Peoples of the Lower Columbia](#)

[Oregon and the Collapse of the Illahee: U.S. Empire and the Transformation of an Indigenous World, 1792-1859](#)

[Seeking Recognition: The Termination and Restoration of the Coos, Lower Umpqua, and Siuslaw Indians](#)

Coquille/Ko'Kwel

A Southern Oregon Coast Indian Tribe: Revisiting History, Ingenuity, and Identity (available through the University library system or at the Coquille Indian Tribal Library)

[Wiyaxayxt / Wiyaakaa'awn / As Days Go By: Our History, Our Land, Our People -- The Cayuse, Umatilla, and Walla Walla](#)

[Breaking Ground: The Lower Elwha Klallam Tribe and the Unearthing of Tse-whit-zen Village](#)

While this is not related to a tribe in Oregon, it is an informative example of the impacts of construction to archaeological and sacred resources which is normally reported only to a limited audience to protect confidentiality.

APPENDIX A  
Sample letter  
initiating Tribal  
consultation

The Honorable Jonathan Smith  
Chairman, Confederated Tribes of the Warm Springs Reservation of Oregon  
P.O. Box C  
Warm Springs, Oregon  
97761-3001

Dear Chairman Smith,

The Oregon Department of Transportation (ODOT) would like to invite the Confederated Tribes of the Warm Springs Reservation of Oregon to participate in.....

## APPENDIX B

Some laws reference tribal consultation requirements or require coordination with tribes. Numerous state and federal laws apply to archaeological sites and other resources important to tribes. These laws include but are not limited to:

### Federal Laws

- Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
- Freedom of Information Act (FOIA)
- Executive Order 12898, Environmental Justice
- National Environmental Policy Act (NEPA)  
Federal Environmental Law which ODOT must follow when undertaking federal projects.
- Endangered Species Act
- Clean Water Act
- Clean Air Act
- Resource Conservation and Recovery Act Oil Pollution Prevention Act
- Comprehensive Environmental Response, Compensation, and Liability Act (Superfund)
- Federal Land Policy and Management Act Coastal Zone Management Act of 1972
- Magnuson-Stevens Fisheries Conservation and Management Act Migratory Bird Treaty
- Paleontology Resources Act
- Executive Order 11593, Protection and Enhancement of the Cultural Environment
- Executive Order 13007, Indian Sacred Sites
- Executive Order 13287, Preserving America
- The National Historic Preservation Act (NHPA)  
Section 106 of the NHPA directs how federal agencies consider and evaluate historic properties.
- Department of Transportation Act (DOT)  
Section 4(f) of the DOT act applies to federal transportation projects and effects on recreational areas and historic properties.
- Archaeological Resources Protection Act (ARPA)  
ARPA is the federal lands archaeological permitting act.
- American Indian Religious Freedom Act (AIRFA)  
AIRFA protects the rights in Native Americans to believe, express, and exercise traditional religious, spiritual, and cultural practices.
- Native American Graves Protection and Repatriation Act (NAGPRA)  
NAGPRA establishes a process for federal agencies and institutions that receive federal funds to inventory and repatriate Native American ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony
- Antiquities Act of 1906

- Archeological and Historic Preservation Act of 1974
- Abandoned Shipwreck Act of 1987

#### State Laws

- ORS 97.740: Indian Graves and Protected Objects.  
State law that protects Indian graves and associated funerary objects and objects of cultural patrimony.
- ORS 358.905-961: Archaeological Sites and Objects.  
State law that declares that a person may not excavate or alter an archaeological site or remove objects from private or public lands without a State Historic Preservation Office-issued permit.
- ORS 182.162-168: Relationship of State Agencies with Indian Tribes.  
State law that establishes framework for communication and coordination between Oregon state agencies and tribes.
- ORS 192.345(11): Public records conditionally exempt from disclosure.  
State law that exempts information concerning the location of archaeological sites or objects from public disclosure
- ORS 390.805-390.925: Designated Scenic Waterways
- ORS 196.105-196.125: Removal Fill  
State law that requires anyone planning to remove or fill material in wetlands or waterways to obtain a removal-fill permit from the Department of State Lands.