



The Confederated Tribes of the Grand Ronde Community of Oregon

Tribal Council
Phone (503) 879-2301
1-800-422-0232
Fax: (503) 879-5964

9615 Grand Ronde Rd.
Grand Ronde, OR 97347

November 29, 2016

U.S. Department of Interior
Office of the Assistant Secretary—Indian Affairs
Office of Regulatory Affairs & Collaborative Action
1849 C Street, NW
M/S 3642
Washington, DC 20240

***Submitted by email to
consultation@bia.gov***

RE: Tribal Comments on Federal Infrastructure Consultation letters of September 23 and October 11, 2016

Dear Principal Deputy Assistant Secretary Roberts,

On behalf of the Confederated Tribes of the Grand Ronde Community of Oregon (Grand Ronde or Tribe), thank you for this opportunity to comment on Federal Infrastructure Consultation (FIC). Grand Ronde is made up of over 27 antecedent tribes and bands, who have inhabited most of western Oregon, southwest Washington, and northern California from time immemorial. These antecedent tribes and bands signed seven ratified treaties with the U.S., ceding title to their homelands in exchange for certain rights and benefits, and were subsequently removed to the Grand Ronde Indian Reservation in northwest Oregon.

As a sovereign Tribal nation with treaty rights and a trust relationship with the U.S., Grand Ronde is the primary consulting Tribe over its ceded homelands. To help provide guidance and assistance to its partner governments, Grand Ronde has produced a document called "Tribal Consultation Terminology and Frequently Asked Questions (FAQs)". Below, we respond to the questions you posed in your letter of October 11 (quoted in italics in this letter), and include excerpts from our Tribal Consultation FAQs document. We have also enclosed the entire FAQs document as Attachment A to this letter.

What are examples of consultations on infrastructure projects that you consider to be meaningful? Why did you consider these consultations to be meaningful?

In its Tribal Consultation Terminology and FAQs (see Attachment A), Grand Ronde defines consultation as "An equal dialogue between sovereign nations or their agencies at the highest levels of decision making, also known as Government-to-Government Consultation. Consultation is an ongoing and meaningful dialogue; this means that consultation takes place until project completion, not just until the 'consultation window' is over. Consultation uses many different tools, particularly in its preparation stages, but the principles remain the same for every consultation." Meaningful dialogue requires that each party speak and be heard fully, and that information and ideas conveyed be incorporated into the

Umpqua Molalla Rogue River Kalapuya Chasta

proposed action. Grand Ronde does not have many examples of such dialogue in consultation with federal agencies, but they would include:

- U.S. Forest Service, Siuslaw National Forest—Mount Hebo Huckleberry Enhancement. This has been meaningful because Tribal comments, concerns, needs and information have been incorporated, and the Tribe has been actively included, in the Forest Service’s planning and management processes. Traditional ecological knowledge has been sought and utilized in these processes.
- U.S. Army Corps of Engineers, Portland District—Willamette Falls Locks Mitigation. This has been meaningful also because Tribal comments, concerns, needs and information have been incorporated into the Corps’s findings on the project. Grand Ronde has been actively included and traditional knowledge has been sought and utilized.

What factors do you consider when determining whether a consultation on an infrastructure project is meaningful? What should agencies take into account when determining whether or not a consultation is meaningful? What are examples of collaboration (other than formal consultation) that you have found to be useful? Why did you consider these collaborations to be meaningful?

Please see Grand Ronde’s answer immediately above for descriptions of factors used in determining meaningful consultation.

When consulting with Grand Ronde, agencies should take into account:

- Grand Ronde is a sovereign nation.
- Grand Ronde has seven ratified treaties with the U.S. covering most of western Oregon, from the crest of the Coast Range in the west to the crest of the Cascade Range in the east, and from the California border in the south up to and including the Columbia River in the north (see Attachment B, Tribal Homelands Map). The lands within the combined treaty boundaries are Grand Ronde’s ceded lands. These treaties are binding law on the U.S. government and its agencies, and should govern consultation just as much as other federal laws.
- Within Grand Ronde’s ceded lands, aboriginal homelands, and usual & accustomed areas (see Attachment B), Grand Ronde must be consulted on all government activities affecting or potentially affecting Tribal cultural and/or natural resources. Examples of such government activities would include, but not be limited to, water quality standards and issues that affect human health and the environment, and federal flood control/hydroelectric projects that affect passage and habitat for salmon, steelhead, Pacific lamprey and other aquatic species.
- Relevant to the U.S. Army Corps of Engineers, Grand Ronde does not recognize the document known as “Appendix C” as an acceptable substitute for Section 106 consultation under the National Historic Preservation Act. It directly contradicts the policies of the Advisory Council on Historic Preservation and other federal mandates, and does not honor Grand Ronde’s ratified treaties.
- Resources protected under the National Historic Preservation Act include, but are not limited to, physical artifacts and features on the subject area. Grand Ronde additionally considers floral, faunal, and geological resources to be contributors to cultural identity and practice, and as such may be considered cultural resources in certain contexts defined by the Tribe.
- Compared to most federal agencies, Grand Ronde is a very small government organization with limited capacity relative to its area of interest (over 14 million acres). A temporary delay in Tribal response should never be taken as lack of interest.
- Grand Ronde underwent termination from the 1950s through the early 1980s, and was restored as a federally recognized Tribe in 1983. The era which saw the passage of most federal legislation having to do with tribal consultation was the same era in which Grand Ronde was not

federally recognized. Other tribes that had not been terminated were able to establish and develop government-to-government relationships during this era, unlike Grand Ronde. Consequently, Grand Ronde still finds itself at a significant disadvantage relative to other tribes in consultation with federal agencies today.

Examples of collaboration other than formal consultation that have been meaningful and/or useful to Grand Ronde include:

- City of Lake Oswego—As partial mitigation for impacts to tribal cultural landscapes caused by a water supply project, the City funded the Tribe’s construction of a sculpture depicting a Tribal creation story as well as an interpretive sign explaining the sculpture and the Tribe’s ancient and ongoing relationship with the lands and waters of that locality. The sculpture was placed in George Rogers Park in Lake Oswego. This collaboration was meaningful because it increased understanding of Grand Ronde’s unique connection to its homelands and the meaning of a tribal cultural landscape. It is the Tribe’s belief that increased understanding on the parts of agencies will lead to better protection of cultural resources.
- Scio Historical Museum—Even though not mandated by any law or regulation, the Historical Museum in the town of Scio, Oregon, collaborated with the Tribe on an interpretive panel and a series of cultural presentations focused on the Tribal history and connections in the Scio area. Like the Lake Oswego collaboration mentioned above, this increased understanding in the community of Grand Ronde’s unique connection to its homelands, which in turn will lead to further collaborations and better protection.

Are there specific agencies that you find to be particularly good at consultation and what is it about how these agencies go about consultation that makes it stand out?

As mentioned above, Grand Ronde does not have many examples of “good” consultation with agencies. However, through years of effort on the part of the Tribe and some partner agencies, good and productive relationships have developed, including the following:

- U.S. Bureau of Ocean Energy Management (BOEM)—The Pacific Region Historic Preservation Office of BOEM has worked closely with Grand Ronde and other Pacific Coast tribes to develop a “how to” document for use by agencies in Tribal consultation for renewable energy projects. This document and other BOEM work has emphasized identifying definitions and concepts from the local tribes to the relevant project, rather than dictating to those tribes what resources will be protected and what concepts will apply. BOEM has been a Tribal partner in advocating for the protection of Traditional Cultural Properties and Tribal Cultural Landscapes, whereas many other agencies still do not understand or accept these types of Tribal resources.
- Oregon Department of Transportation (ODOT)—Like most other state and federal agencies, ODOT has protocols and methodologies for Tribal consultation and identification of cultural resources. What makes ODOT stand out is regular and early personal interaction with Tribal staff under an Inter-Governmental Agreement (IGA). Rather than simply mailing or emailing project notices, ODOT staff meet with Tribal staff on a quarterly basis, let the Tribe decide the priorities for consultation, and follow up with more project information and opportunity for input when requested by the Tribe. Beyond project notifications and updates, ODOT also has provided for Tribal staff and members to directly train ODOT staff on Tribal culture and history, and has begun a native plant species database using information provided from tribes.

What can Federal agencies do to better support Tribes’ ability to provide input into infrastructure decisions? What are examples of good practices that enable Tribes to provide their views and input early in the development process or prior to Federal review of an infrastructure project?

Grand Ronde cannot speak for other sovereign tribes, but from Grand Ronde's experience the following are examples of consultation practices that have been effective for the Tribe:

- Entry into agreements—The Tribe has entered into consultation agreements with mutually positive results. They help ensure protection of Tribally-important resources and help make consultation more meaningful. However, these are generally most useful where there is an obvious need for Tribal consultation on many projects over a long period of time. Such agreements can build a beneficial relationship with the Tribe and make consultation easier, but they also take time and resources to draft, finalize, approve and implement.
- Making sure Tribal contact information is correct on notices—The enclosed FAQs document contains the most current Tribal consultation contacts and information at Grand Ronde (see Attachment A). However, because staff positions and roles can change over time, partner agencies are encouraged to check in with Grand Ronde at least annually for contact updates.
- Follow up after initial notice—Grand Ronde's Tribal Consultation FAQs document (see Attachment A) has this to say about following up on notice letters: "Follow-up emails or phone calls (or both) with Tribal staff are good tools for ensuring receipt of notification, confirming that the Tribe would like to actively consult, and determining next steps. In many cases, Tribal staff will wish to schedule a staff-to-staff meeting to go over the project, either in person or by phone. Sometimes Tribal participation on a project team is possible. In a few cases, a government-to-government or other meeting with Tribal Council will be the appropriate next step, as determined by Tribal staff (see below). Occasionally the Tribe will express that it does not currently have comments regarding the project but would like to be notified if anything more about the project or its potential impacts becomes known."
- Honoring the Tribe's definition of consultation—As stated above, consultation is an equal dialogue between sovereign nations or their agencies at the highest levels of decision making, also known as Government-to-Government Consultation. Consultation is an ongoing and meaningful dialogue; this means that consultation takes place until project completion, not just until the 'consultation window' is over. Consultation uses many different tools, particularly in its preparation stages, but the principles remain the same for every consultation.

What steps can Federal agencies take to ensure that Federal and non-Federal parties engage meaningfully with Tribes without overwhelming Tribes' resources?

Many of the steps described above will help accomplish this result. As stated above, Grand Ronde has a small capacity in comparison to most federal agencies. Therefore, generally speaking, the less "heavy lifting" agencies require of Grand Ronde in consultation, the better. Additionally, while it is understood some projects or processes have short timeframes and turnaround times, Tribal staff typically require at minimum a 60-day review period following receipt of complete information to ensure meaningful Tribal review and input. Finally, approaching Tribal consultation as an ongoing dialogue or conversation rather than a narrow notice-and-comment process will be vitally important for parties to engage meaningfully with Grand Ronde.

Please contact Michael Karnosh, Ceded Lands Program Manager, at (503) 879-2383 or Michael.Karnosh@grandronde.org if there are any questions on these comments. Once again, thank you for this opportunity to comment.

Sincerely,



Reynold L. Leno
Tribal Council Chairman

CC: U.S. Army Corps of Engineers, Northwestern Division
U.S. Department of Justice, Office of Tribal Justice

Enc: Attachment A: Tribal Consultation Terminology and Frequently Asked Questions (FAQs), excerpt from Grand Ronde Tribal Ceded Lands Plan
Attachment B: Tribal Homelands Map

Attachment A. Tribal Consultation Terminology and Frequently Asked Questions (FAQs)

1. **Consultation**—An equal dialogue between sovereign nations or their agencies at the highest levels of decision making, also known as **Government-to-Government Consultation**. Consultation is an ongoing and meaningful dialogue; this means that consultation takes place until project completion, not just until the “consultation window” is over. Consultation uses many different tools, particularly in its preparation stages, but the principles remain the same for every consultation.
2. **Staff-level Preparation for Consultation**—Describes technical-level activity that is usually specific to a project or program of limited scope. This staff-level preparation can take many different forms: in-person staff meetings, Tribal membership on project teams, or direct staff-to-staff communication, for example. Generally speaking, when a government or a subdivision of that government first approaches the Tribe, government-to-government consultation is done first at a high level, followed by staff-level activity or preparation on a project-by-project basis.
3. **Consultation Frequently Asked Questions (FAQs)**—The FAQs and responses below were written by Michael Karnosh, Ceded Lands Program Manager, in response to repeated questions from agency staff regarding Tribal consultation.

Introduction

The Confederated Tribes of the Grand Ronde Community of Oregon (also known as “Confederated Tribes of Grand Ronde” or simply “Grand Ronde”) is a federally recognized Indian Tribe with a reservation in the Willamette Basin in northwest Oregon. Tribal homelands include most of western Oregon, and also parts of southwest Washington and northern California.

Grand Ronde is a sovereign nation with treaty rights, cultural resources, and natural resource interests throughout the areas mentioned above. The way in which the Tribe seeks to protect these resources, rights and interests is commonly referred to as

consultation. If the consultation is between the Tribe and another government, it is known as government-to-government consultation.

What is Consultation?

Grand Ronde defines consultation as: **An equal dialogue between sovereign nations or their agencies at the highest levels of decision making. Consultation is an ongoing and meaningful dialogue; this means that consultation takes place until project completion, not just until the consultation window is done.** Consultation uses many different tools particularly in its preparation stages, but the principles remain the same for every consultation.

Why Consult with the Tribe?

For federal agencies, consultation with Tribes is required as part of the U.S. Government's trust responsibility to them, and many federal laws, regulations, policies, and Executive Orders require consultation as well. For state and local agencies, consultation with Tribes is likewise required under many state laws, regulations, policies, and state executive orders.

Tribal consultation should not simply be viewed as a "necessary evil," however. For Grand Ronde, consultation has been and continues to be important in forming productive and mutually beneficial relationships with government agencies and non-governmental organizations. The Tribe has formed willing partnerships with many of the entities it has consulted with, since their goals and interests often overlap. Grand Ronde is often able to contribute unique knowledge and expertise that proves useful to partners and consulting agencies.

On Which Projects or Processes Should Grand Ronde Tribal Consultation be Sought?

Grand Ronde Tribal Council Resolution No. 034-03 declares that "the Tribe has a cultural interest in those areas of Oregon that antecedent Tribes and bands of the Confederated Tribes of the Grand Ronde Community of Oregon ceded to the United States through the following treaties: [Willamette Valley, Molalla, Umpqua & Kalapuya, Chasta Costa, Cow Creek Umpqua, and two Rogue River Treaties are listed]", and in "those areas of Oregon and Washington not within the Ceded Lands that antecedent Tribes and bands that comprise part of the Confederated Tribes of the Grand Ronde Community of Oregon historically inhabited, including (1) Tillamook and Clatsop counties, (2) portions of Lincoln County, and (3) portions of Clark, Lewis, Cowlitz, Wahkiakum, and Pacific counties in Washington."

By that Tribal Council Resolution, "the Tribe hereby notifies neighboring governments and the public that it will seek to be considered the primary consulting Tribe regarding development and planning activities within the Cultural Interest Lands [i.e. the above-mentioned areas] that may affect Tribal natural resources, cultural resources, ancestral remains, or sacred sites."

Maps of Grand Ronde Tribal Ceded Lands and other cultural interest lands are available upon request. The Tribal website maps.grandronde.org contains free, printable maps of Ceded Lands and other cultural interest lands. In any project or process in those areas

that could potentially affect natural or cultural resources, Grand Ronde must be consulted.

I sent a project notification out to the Tribal contact I had on file. Isn't that enough?

First, while notification is an important first step, it alone does not constitute consultation. Second, Tribal contacts and contact information can change over time, just as they do in many other government agencies, and often there is insufficient capacity to handle all incoming notifications in a timely manner. Consultation requires more than just simple notice-and-comment-period mailing.

I sent a notification or other invitation to the Tribe, and never received a response. Does this mean the Tribe is not interested in consulting on this project?

Silence from the Tribe should never be interpreted as lack of interest. There are many potential explanations for a missing Tribal response: the notification could have been misdelivered due to outdated, incomplete or otherwise incorrect Tribal contact info, or there could currently be insufficient Tribal staff capacity to deal with a response in a timely manner. Whatever the reason, lack of Tribal interest is usually the least likely explanation for not receiving a Tribal response.

To Whom Should Notifications be Sent?

To ensure proper delivery, initial notices should be sent to the Tribal Council Chair with courtesy copies to at least two Tribal staff members. Once consultation has begun, Tribal contacts are usually identified early in the process. Agencies and other entities should "check in" with Grand Ronde annually to ensure they have the most current contact information.

As of the date of this writing, here is Grand Ronde's contact information for initial notices:

Hon. Reynold L. Leno, Tribal Council Chairman
Confederated Tribes of Grand Ronde
9615 Grand Ronde Road
Grand Ronde, OR 97347

Michael Karnosh, Ceded Lands Program Manager
Confederated Tribes of Grand Ronde
9615 Grand Ronde Road
Michael.Karnosh@grandronde.org
503-879-2383

Briece Edwards, Historic Preservation Manager
Confederated Tribes of Grand Ronde
8720 Grand Ronde Road
Grand Ronde, OR 97347
THPO@grandronde.org
503-879-2084

Mike Wilson, Natural Resources Department Manager

Confederated Tribes of Grand Ronde
P.O. Box 10
Grand Ronde, OR 97347
Mike.Wilson@grandronde.org
503-879-2380

I sent notifications to the contacts the Tribe gave me. Now what?

The Tribe's desired next step in consultation will often depend on the scope, scale and intensity of the project. Follow-up emails or phone calls (or both) with Tribal staff are good tools for ensuring receipt of notification, confirming that the Tribe would like to actively consult, and determining next steps. In many cases, Tribal staff will wish to schedule a staff-to-staff meeting to go over the project, either in person or by phone. Sometimes Tribal participation on a project team is possible. In a few cases, a government-to-government or other meeting with Tribal Council will be the appropriate next step, as determined by Tribal staff (see below). Occasionally the Tribe will express that it does not currently have comments regarding the project but would like to be notified if anything more about the project or its potential impacts becomes known.

I'd like to meet with the Grand Ronde Tribal Council. What should I do?

First, discuss the matter with the relevant Tribal staff contact(s). He or she (or they) will be able to submit a meeting request to Tribal Council (the first step in scheduling a meeting with the Council), or determine other methods for accomplishing consultation. As with many government leaders and executives, Tribal Council meetings can be difficult to schedule, sometimes requiring a month or more of advance planning. Meetings with Tribal staff are typically easier to schedule, require less advance notice, and can efficiently produce the results sought. Discussions with Tribal staff will reveal the recommended path forward, which may or may not be a meeting with Tribal Council in the near future.

At What Point Should Consultation Be Initiated?

The answer one might expect is "as early as possible." However, it may be difficult for the Tribe to provide meaningful responses or comments (answers) when the project or process (question) is not known or defined. Therefore, at the earliest point at which a meaningful dialogue can take place (typically before the mandatory public comment period, if there is one), consultation with the Tribe should be initiated.

Won't the Tribe just try to hold up the project or demand a lot of expensive surveys/studies?

Actually, Tribal consultation helps avoid these kinds of project "roadblocks" more often than it creates them. In the small percentage of cases where there is a major holdup, it is usually due at least partly to late or improper Tribal consultation, some damage to important Tribal resources has already been done, and further damage cannot be reasonably avoided without some kind of delay. These holdups also consume limited Tribal staff time and resources; therefore it is in everyone's best interest to initiate Tribal consultation at the earliest point where meaningful dialogue can take place.

What Kinds of Activities does Consultation Include?

True consultation with Grand Ronde has only one activity: A direct dialogue between Tribal Council and the highest-level decision makers of the agency. However, preparation for consultation can include any combination of the following:

- Written or in-person project briefings/updates
- Written comments or verbal testimony from the Tribe
- Tribal participation on project teams, at technical, policy and/or oversight levels
- Other meetings with Tribal staff, in person or by phone or web
- Field visits to project areas
- Preparatory meetings with Tribal Council
- Written agreements with the Tribe
- Any other activity that involves Tribal input

But the important thing to remember is that consultation is a meaningful dialogue.

At What Point Does Consultation End for a Project or Process?

The Tribe appreciates when its comments are taken and considered early in the planning phases of a project. But Grand Ronde does not consider consultation to end there, and often the implementation of the project is a critical time for protection of resources. It is important for the Tribe to be apprised of unforeseen project impacts, negative or positive, and to be involved in the implementation phase as well as planning. Simply put, in Grand Ronde's view consultation ends when the project ends.

Is it possible to make the consultation process simpler or more predictable through the use of an MOU/MOA?

Yes, the Tribe has entered into consultation agreements with mutually positive results. However, these are generally most useful where there is an obvious need for Tribal consultation on many projects over a long period of time. Such agreements can build a beneficial relationship with the Tribe and make consultation easier, but they also take time and resources to draft, finalize, approve and implement.

I have been communicating with other Tribal/InterTribal groups, individual Tribal members, and/or the Bureau of Indian Affairs on my project. Do I need to consult with Grand Ronde as well?

For all projects potentially affecting cultural or natural resources over Grand Ronde's cultural interest area (see "On Which Projects or Processes Should Grand Ronde Tribal Consultation be Sought?" above), the answer is a definite yes. Tribes are sovereign nations, any one of which cannot speak for another, and while they may appear similar they often have different values and priorities. InterTribal groups and the BIA, while often sharing Grand Ronde's interests, are not authorized to speak for the Tribe either. Nor are individual Tribal members, unless they are employed or otherwise expressly authorized by the Tribal government. Simply stated, there is no substitute for consulting directly with the Tribe. If in doubt about the need to consult on a particular project, ask one of the Grand Ronde staff contacts listed above.

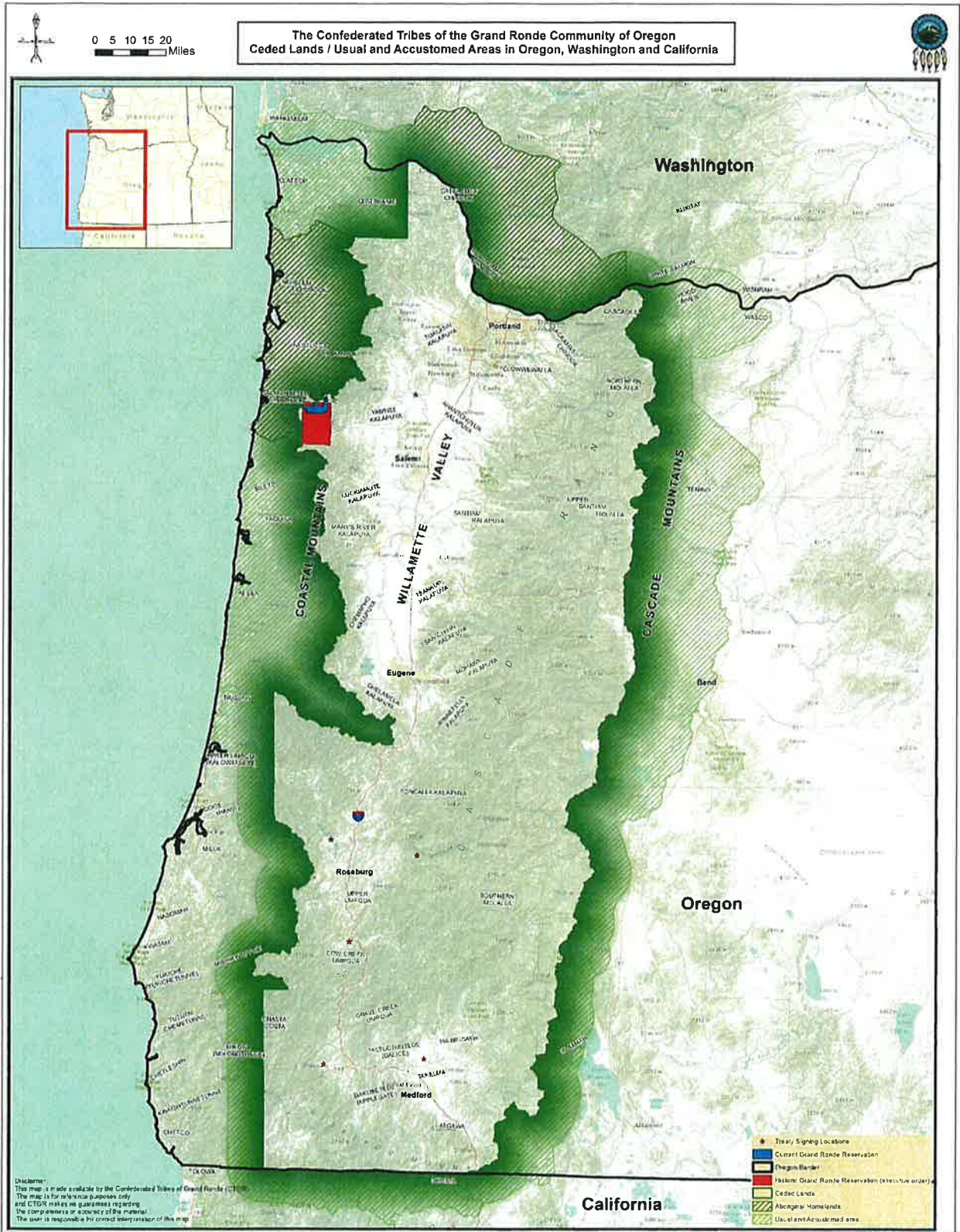
Glossary

1. **Aboriginal Homelands:** Lands that are not strictly included within a Treaty boundary, but are specifically mentioned in a ratified Treaty or other binding document as being homelands with rights attached to them for the subject Tribe(s). In Grand Ronde's case, the Willamette Valley Treaty of January 22, 1855, specifically identifies aboriginal homelands in southwest Washington as available to the signatory Tribes for future treaty negotiations; in addition the Grand Ronde Reservation Act of 1988 identifies homelands in Polk, Tillamook, and Yamhill counties in Oregon that have certain rights attached to them.
2. **Acquisition:** The gaining of land by the Tribe, whether through donation, exchange, grant, purchase, or other type of transaction.
3. **Adjudicated Treaty Rights:** Treaty rights and areas judged to be valid under a ratified Treaty by a court of competent jurisdiction.
4. **Ancestral Lands:** This term is used frequently by Tribes and non-Tribal entities alike, but there is no clear consensus on its definition. It can be used to envelop any, some, or all of the types of lands described in the Ceded Lands Plan.
5. **Antecedent:** a term that means "coming before." The more than 27 antecedent Tribes and bands that make up the Confederated Tribes of Grand Ronde signed treaties with the U.S. government and were later relocated to Grand Ronde.
6. **Areas of Cultural Interest:** This term is used by the Tribe in Tribal Council Resolution No. 034-03 to identify specific U&As as well as aboriginal homelands that are of cultural interest to the Tribe, and for which Grand Ronde seeks to be considered the primary consulting Tribe (in addition to the Tribe's Ceded Lands).
7. **Basin or Watershed:** The area of land that is drained by a certain watercourse, such as the Columbia Basin, Willamette Basin, Yamhill Watershed, or Gold Creek Watershed.
8. **Ceded Lands:** Homelands identified and delineated in a Treaty between the United States and an Indian Tribe(s) as being ceded by that Tribe(s) (i.e. title handed over) to the United States in exchange for certain rights and benefits. Under the Reserved Rights doctrine, any rights not explicitly given up in a Treaty are retained by the Tribe(s) subsequent to the Treaty signing, including rights of hunting, fishing, gathering, and access.
9. **Consultation:** an equal dialogue between sovereign nations or their agencies at the highest levels of decision making. Consultation is an ongoing and meaningful dialogue; this means that consultation takes place until project completion, not just until the consultation window is done.
10. **Estuary:** For a river or stream emptying into the ocean, the estuary is that part of the system which is influenced by the tides. For example, the Columbia River Estuary extends upstream to Bonneville Dam on the Columbia, and up to Willamette Falls on the Willamette River.
11. **Landholding or land-managing (agencies):** Agencies with a land-managing focus are those with an obligation to wisely manage the land and resources within their jurisdiction for the benefit of the public. Examples include but are not limited to U.S. Forest Service, Bureau of Land Management, Oregon Department of Fish and Wildlife, U.S. Fish and Wildlife Service, Metro, and National Oceanic and Atmospheric Administration.
12. **Local Lands:** Because the Tribe often acquires lands near the community of Grand Ronde and treats them as part of its local land base, even though they may not be located within the original Grand Ronde Reservation, practically speaking there is no distinction between these local community lands and those lands within the original

Reservation. For purposes of the Ceded Lands Plan, lands within a 5-mile distance from the original Grand Ronde Reservation boundary are considered “Local Lands” as opposed to “Ceded Lands,” even though technically they may be more properly considered Ceded Lands.

13. **Memorandum of Understanding (MOU):** A non-binding agreement entered into in good faith between the Tribe and one or more government agencies. The intent of MOUs generally is to formalize, solidify, strengthen, and make consistent the government-to-government relationship.
14. **Preparation (for consultation):** A term used to describe technical-level activity that is usually specific to a project or program of limited scope. This staff-level *preparation* can take different forms, and is discussed in detail in Section 3 of the Ceded Lands Plan.
15. **Ratified versus Unratified Treaties:** U.S. treaties have the force of law when ratified by Congress. Grand Ronde has seven ratified treaties with the United States. Grand Ronde has many more unratified treaties as well; while these are not enforceable by law they are still important to Grand Ronde because they were negotiated in good faith with the expectation that the United States would honor them. They are also important indicators of which homeland areas were most important to the antecedent Tribes and bands as reservations.
16. **Regulatory (agencies):** Agencies with a regulatory focus are those with an obligation to regulate activities over their area of jurisdiction. Examples include, but are not limited to, U.S. Army Corps of Engineers, Oregon Department of State Lands, U.S. Environmental Protection Agency, and Oregon State Historic Preservation Office.
17. **Reservation:** Lands identified, retained, and reserved by a Tribe through a Treaty, Executive Order, or Act of Congress. For purposes of the Ceded Lands Plan, this definition includes lands that have gone out of Tribal ownership but have been subsequently re-acquired and converted to Reservation status by the Tribe. The terms Reservation and Ceded Lands are mutually exclusive as to the same piece of land.
18. **Reserved Rights Doctrine:** A doctrine of federal law established by a series of U.S. Supreme Court cases starting in 1905, interpreting treaties with Indian Tribes. Under this doctrine, any rights not explicitly given up in a Treaty are retained by the Tribe(s) subsequent to the Treaty signing, including rights of hunting, fishing, gathering, and access.
19. **Tribal Lands:** This term is often used generally to refer to lands that the Tribe either owns outright (such as Reservation Lands or Local Lands) or has an interest in (such as Ceded Lands and U&As), or both. This term is very general and where possible more specific terms will be used in the Ceded Lands Plan.
20. **Triggers (for consultation):** Facts or conditions that may be present on a project, any one of which can automatically trigger the Tribe requesting the initiation of Tribal consultation specific to that project.
21. **Usual and Accustomed Areas (U&As):** Lands that have been documented as being regularly utilized and visited by a Tribal people before Treaty signing, but are not part of the Tribe’s Ceded Lands because they are outside the Treaty boundary. There may or may not be Treaty rights associated with U&As, depending on the language of the particular Treaty, but the distinction between U&As and Ceded Lands is that regular use, rather than ownership or Treaty status, defines them. The pattern of use need not have been constant for a Tribe to establish U&As, but must have been more than merely anecdotal or opportunistic, such that a well-inculcated and recurring relationship with the land is apparent from oral histories, ethnographic studies, or other documentation.

Attachment B. Tribal Homelands Map.



Umpqua Molalla Rogue River Kalapuya Chasta