



Staff Recommendation

January 24, 2023

Item 5

Action Item:

Consideration and Approval of OPC's Tribal Engagement Strategy and Disbursement of Funds to Establish a Tribal Small Grants Program

Michael Esgro, Senior Biodiversity Program Manager & Tribal Liaison

Recommended Action: Staff recommends that the Ocean Protection Council adopt the attached Tribal Engagement Strategy (Exhibit A) and direct staff to work with tribal, agency, and other partners to implement the Strategy. Staff also recommends that the Council approve the disbursement of up to \$1,000,000 to establish a Tribal Small Grants Program. This program will provide dedicated funding to tribal governments and tribally-led nongovernmental organizations (NGOs) in support of work that advances tribes' priorities for conservation, management, and stewardship, as well as the goals in OPC's Strategic Plan.

Location: Statewide

Strategic Plan Goals and Objectives: Goal 2: Advance Equity Across Ocean and Coastal Policies and Actions; Objective 2.1: Enhance Engagement with Tribes

Equity and Environmental Justice Considerations: Benefits to tribes will include, but are not limited to: new funding opportunities for tribes; improved tribal access to the coast and ocean; improved participation of tribes in research, monitoring, and restoration projects; and increased opportunities for tribal stewardship and co-management of ancestral lands and waters.

Exhibits:

Exhibit A: OPC Tribal Engagement Strategy

Exhibit B: Letters of support

Findings and Resolution:

Staff recommends that the Ocean Protection Council (OPC) adopt the following findings:

“Based on the accompanying staff report and attached exhibit(s), OPC hereby finds that:

1. The proposed projects are consistent with the purposes of Division 26.5 of the Public Resources Code, the California Ocean Protection Act;
2. The proposed projects are consistent with the Budget Act of 2022, which includes a \$50 million General Fund appropriation for grants or expenditures for resilience projects that conserve, protect, and restore marine wildlife and healthy ocean and coastal ecosystems; and
3. The proposed projects are not ‘legal projects’ that trigger the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section, section 15378.”

Staff further recommends that OPC adopt the following resolution pursuant to Sections 35500 *et seq.* of the Public Resources Code:

“OPC hereby adopts the attached Tribal Engagement Strategy (Exhibit A) and directs staff to work with tribal, agency, and other partners to implement the Strategy. OPC also approves the disbursement of up to \$1,000,000 to establish a Tribal Small Grants Program. This program will provide dedicated funding to tribal governments and tribally-led nongovernmental organizations (NGOs) in support of work that advances tribes’ priorities for conservation, management, and stewardship, as well as the goals in OPC’s Strategic Plan.

This authorization is subject to the condition that prior to disbursement of funds, grantee(s) shall submit for the review and approval of the Executive Director of the OPC detailed work plans, schedules, staff requirements, budgets, and the names of any contractors intended to be used to complete the projects, as well as discrete deliverables that can be produced in intervals to ensure the projects are on target for successful completion. All projects will be developed under a shared understanding of process, management and delivery.”

Executive Summary:

Staff recommends adoption of OPC's first-ever Tribal Engagement Strategy, which will serve as a framework for enhanced partnership between OPC and California Native American tribes on ocean and coastal issues. The Tribal Engagement Strategy was developed in close collaboration with tribes, including early consultations and listening sessions held in fall 2021 as well as further consultation on a draft Strategy held in summer 2022.

In furtherance of Newsom Administration and California Natural Resources Agency directives to strengthen relationships with tribes, the Tribal Engagement Strategy provides specific actions that OPC will undertake to enhance tribal engagement in all aspects of its work. These actions are based on feedback received from tribes regarding their most significant priorities for coastal and ocean conservation and management. Additionally, recognizing historic barriers to effective communication between tribes and the state and current constraints on tribal capacity, the Tribal Engagement Strategy includes actions that OPC will undertake to improve communication with tribes, primarily through robust consultation, but also through other engagement approaches as appropriate. Upon adoption of the Tribal Engagement Strategy, OPC staff will work in partnership with tribes, sister agencies, and other partners to begin implementation, which will include prioritization of specific actions, development of clear timelines and milestones, and identification of required resources. On a regular basis, and in close collaboration with tribes, OPC will evaluate progress being made toward implementation of the Strategy.

Staff further recommends the disbursement of up to \$1,000,000 to establish a Tribal Small Grants Program, a priority within the Tribal Engagement Strategy. This program will provide dedicated funding to tribal governments and tribally-led nongovernmental organizations (NGOs) in support of work that advances tribes' priorities for conservation, management, and stewardship, as well as the goals in OPC's Strategic Plan. This approach will allow tribal governments and communities to secure funding to advance tribal priorities, without having to compete against other highly-resourced academic institutions and organizations. A grantee, to be identified, will work in close partnership with OPC to develop this program.

Project Summary:

Background:

Native peoples have inhabited the California coast since time immemorial. California Native American tribes have distinct cultural, spiritual, environmental, economic, and public health interests, and hold unique rights, perspectives, and knowledges relating to California's coast and ocean. Despite a history of violence, exploitation, and dispossession perpetrated by the state, which forcefully separated tribal communities from their ancestral territories and cultural practices, tribes have never ceded their obligation to steward coastal and marine ecosystems. Historically, however, resource management in California has failed to adequately consider the rights, perspectives, and knowledges held by tribes.

In an effort to begin to address these wrongs, in June 2019, Governor Gavin Newsom issued [Executive Order N-15-19](#)¹ apologizing on behalf of the state to California Native Americans for the many instances of violence, mistreatment and neglect inflicted upon California Native Americans throughout the state's history, leading to the creation of a tribally-led, consultation-informed [Truth and Healing Council](#)² to address these issues. Additionally, in September 2020, Governor Newsom released a [Statement of Administration Policy on Native American Ancestral Lands](#)³. This policy statement encourages state entities to seek opportunities to support tribes' co-management of, and access to, natural lands that are within a tribe's ancestral land and under the ownership or control of the State of California.

Guided by these transformative policies, OPC's Strategic Plan to Protect California's Coast and Ocean 2020-2025 includes Objective 2.1: Enhance Engagement with Tribes. This objective represents OPC's commitment to effectively engage and partner with California's tribes & tribal governments on ocean and coastal resource protection, access, policy, and management.

¹ <https://tribalaffairs.ca.gov/wp-content/uploads/sites/10/2020/02/Executive-Order-N-15-19.pdf>

² <https://tribalaffairs.ca.gov/cthc/>

³ <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.25.20-Native-Ancestral-Lands-Policy.pdf>

Developed through extensive tribal consultation, OPC's first-ever Tribal Engagement Strategy now aims to translate this commitment into an overarching framework for enhancing tribal engagement in all aspects of OPC's work.

In 2022, OPC adopted an Equity Plan that provides goals, objectives, and strategies for advancing equity across ocean and coastal policies and actions in California, as well as strengthening internal efforts to create a more inclusive workplace at OPC. The Equity Plan and the Tribal Engagement Strategy are intended to be complementary documents. While the Tribal Engagement Strategy is specifically focused on government-to-government relations with tribes, the Equity Plan includes recommendations to support tribal governments and communities outside of the government-to-government context.

Project Summary:

Strategy development

In Fall 2021, OPC engaged more than 10 coastal tribes through early consultations and listening sessions to solicit tribes' perspectives on two key issues: tribes' priorities for coastal and ocean conservation and management, and best practices for conducting outreach and communicating with tribes in a respectful and effective manner. Feedback on these themes, along with other valuable input received from tribes, directly informed the development of a draft Tribal Engagement Strategy, which was released to tribes for further consultation and community roundtable listening sessions in summer 2022. The final Strategy incorporates additional comments received from tribes during those consultations and listening sessions.

Content of the Strategy

The Tribal Engagement Strategy contains three major sections:

- *Guiding principles.* This section lists principles and best practices that OPC will follow to ensure, improve upon, and maintain respectful and effective engagement with tribes. Examples include: acknowledging history and harms, recognizing the diversity of tribes in California, communicating and consulting early and often, understanding current constraints on tribal capacity, and committing to regular training for OPC staff on tribal affairs.
- *Enhancing tribal engagement in efforts to protect California's coast and ocean.* This section contains specific, measurable, time-bound actions that

OPC will undertake to strengthen tribal engagement in all aspects of its work and support tribal priorities. Examples include: providing new funding opportunities for tribes; establishing a statewide Tribal Coast and Ocean Council to facilitate improved engagement with the state on coastal and marine issues; increasing co-management of ancestral lands and waters; improving coastal and ocean access for tribes; and strengthening pathways for the consideration of Traditional Knowledges in management decisions.

- *Improving communication with tribes.* This section describes approaches that OPC will implement to ensure that engagement with tribes is effective, meaningful, inclusive, and mutually respectful, primarily through robust consultation, but also through other engagement approaches as appropriate. Examples include: identifying opportunities for OPC leadership and staff to visit tribal ancestral territories and meet in-person with tribes across the state; sharing a consultation calendar with tribes early each year; holding meetings, workshops, and roundtable discussions at locations and times that maximize tribal involvement and minimize burdens; and obtaining a working knowledge of tribes' preference for outreach and communication.

Implementation

Upon adoption of the Tribal Engagement Strategy, OPC staff will work in partnership with tribes, sister agencies, and other partners to begin implementation of the Strategy, which will include prioritization of specific actions, development of clear timelines and milestones, and identification of required resources. On a regular basis, and in close collaboration with tribes, OPC will evaluate top priorities and assess progress being made toward those priorities. As needed, OPC will update the Strategy based on these assessments.

Tribal Small Grants Program

One of the priority actions in the Tribal Engagement Strategy is the establishment of a new Tribal Small Grants program that will provide dedicated funding to tribal governments and tribally-led NGOs in support of work that advances tribes' priorities for coastal and ocean conservation, management, and stewardship, as well as the goals of OPC's Strategic Plan. The Tribal Small Grants Program will provide funding (approximately \$50,000-\$100,000 per award) through a competitive process in which eligibility will be limited to California Native American tribes, including federally recognized tribes and non-federally recognized tribes

included on the contact list maintained by the Native American Heritage Commission, as well as tribally-led NGOs. This approach will allow tribal governments and communities to secure funding to advance tribal priorities without having to compete against other highly-resourced academic institutions and organizations. A grantee, to be identified, will work in close partnership with OPC to develop this program. The grantee will be selected based on the following criteria: capacity and expertise needed to administer the program; relationships with California Native American tribes and tribal governments; experience providing technical assistance and support for capacity building; and ability to administer grants and report on progress.

Equity and Environmental Justice Considerations:

In support of OPC Strategic Plan Goal 2 (Advance Equity Across Ocean and Coastal Policies and Actions) and Objective 2.1 (Enhance Engagement with Tribes), the Tribal Engagement Strategy will transform engagement with California Native American tribes across all aspects of OPC's work. It will provide OPC with the overarching strategic vision needed to move forward with new and strengthened tribal partnerships, including providing new funding opportunities to tribes. Taken together, the Tribal Engagement Strategy and the Tribal Small Grants program will provide benefits that could include but are not limited to: new funding opportunities for tribes; improved tribal access to the coast and ocean; improved participation of tribes in research, monitoring, and restoration projects; and increased opportunities for tribal stewardship and co-management of ancestral lands and waters.

The Tribal Engagement Strategy directly supports OPC Equity Plan Goal 1 (Establish and implement more equitable and sustainable community engagement and funding methods to expand and enhance opportunities for ocean and coastal projects, policies, and research) as well as OPC Equity Plan Goal 3 (Lead equitable ocean and coastal policymaking in California).

About the Grantee:

Upon adoption of the OPC Tribal Engagement Strategy, OPC staff will work to identify an appropriate grantee to help design and administer the Tribal Small Grants program.

Project Timeline:

Timelines for individual actions in the Tribal Engagement Strategy will be identified upon adoption. The Tribal Small Grants program is anticipated to launch no later than Spring 2023.

Project Financing:

Staff recommends that the Ocean Protection Council (OPC) authorize encumbrance of up to \$1,000,000 to establish a Tribal Small Grants Program.

Ocean Protection Council	\$1,000,000
TOTAL	\$1,000,000

The anticipated source of funds will be OPC's \$50 million General Fund FY 22/23 appropriation for grants or expenditures for resilience projects that conserve, protect, and restore marine wildlife and healthy ocean and coastal ecosystems.

Consistency with California Ocean Protection Act:

The proposed project is consistent with the Ocean Protection Act, Division 26.5 of the Public Resources Code, because it is consistent with trust-fund allowable projects, defined in Public Resources Code Section 35650(b)(2) as projects which:

- Allow for increased public access to, and enjoyment of, ocean and coastal resources, consistent with sustainable, long-term protection and conservation of those resources.
- Improve management, conservation, and protection of coastal waters and ocean ecosystems.
- Protect, conserve, and restore coastal waters and ocean ecosystems.
- Provide funding for adaptive management, planning coordination, monitoring, research, and other necessary activities to minimize the adverse impacts of climate change on California's ocean ecosystem.

Compliance with the California Environmental Quality Act (CEQA):

The proposed project is not a “legal project” that triggers the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21068 and Title 14 of the California Code of Regulations, section 15378. Future projects that may be funded by the Tribal Small Grants Program will be required to comply with CEQA and other necessary environmental permitting requirements, or otherwise explain why permits are not applicable to the project. Should such requirements be triggered, tribes will be able to use funding from the grant program to help OPC obtain the information it needs for future approvals.