

2016 Annual Government-to-Government Report on Tribal Relations

Submitted to:
Governor Kate Brown

Legislative Commission on Indian Services
By: Richard Whitman, Director

December 2016



700 NE Multnomah Street
Suite 600
Portland, OR 97232
Phone: 503-229-6991
Fax: 503-229-6957

Contact: Christine Svetkovich
www.oregon.gov/DEQ

DEQ is a leader in restoring,
maintaining and enhancing the
quality of Oregon's air, land and
water.



State of Oregon
Department of
Environmental
Quality

This report prepared by:

Oregon Department of Environmental Quality
700 NE Multnomah Street Suite 600
Portland, OR 97232
1-800-452-4011
www.oregon.gov/deq

Contact:
Christine Svetkovich
503-229-6991

Alternative formats (Braille, large type) of this document can be made available. Contact DEQ, at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696.

Table of Contents

Executive Summary	2
1. Agency Contacts	3
2. Agency Interest Areas	4
3. Department Statement.....	5
4. Participation in the Government-To-Government Process	6
5. Internal Tribal Relations Action/Training.....	8
6. Summary of Program Related Issues/Activities	9
6.1. Improving Water Quality	9
6.2. Improving Air Quality	16
6.3. Improving Land Quality	17

Executive Summary

This Oregon Department of Environmental Quality annual Government-to-Government report on tribal relations provides an update on efforts and actions during 2016 by DEQ to consult, coordinate, collaborate, and enhance relations with Oregon's nine federally-recognized tribal governments regarding environmental protection and improvement activities. These activities include cleanup of contaminated lands, protection of rivers and streams, partnerships for restoration projects, and consultation on the development of rules, policies and procedures, technical assistance and more.

DEQ has government-to-government relationships with the nine federally-recognized tribal governments and communicates formally through in-person meetings, letters and emails and informally through phone conversations and coordination meetings. DEQ is interested in seeking additional opportunities to work together, coordinate with and learn from tribal representatives to protect and enhance Oregon's land, air and water.

1. Agency Contacts

Liaison to Tribal Nations:

Christine Svetkovich
Water Quality Manager
700 NE Multnomah Street
Suite 600
Portland, OR 97232
Phone: 503-725-6991
Fax: 503-229-6957
Email: svetkovich.christine@deq.state.or.us

Agency Director:

Richard Whitman
700 NE Multnomah Street
Suite 600
Portland, OR 97232
Phone: 503-229-5300
Fax: 503-229-6762
Email: whitman.richard@deq.state.or.us

2. Agency Interest Areas

As the state's environmental protection agency, DEQ coordinates with the nine federally-recognized tribal governments in Oregon on issues related to air quality, water quality and land quality. DEQ's work is linked to the work of tribal governments through natural resources, cultural resources and community and economic development programs. Almost all programs that DEQ administers and implements may impact the nine federally-recognized tribes. To this end, DEQ's Director sends an annual letter to tribal chairpersons summarizing the policy decisions (typically rulemakings) that are scheduled to be presented to the Environmental Quality Commission during that year and to ensure communication and consultation occurs as requested. In addition, DEQ's tribal liaison updates the key contact(s) for each tribe on topics of interest such as; upcoming cleanup projects; the list of permits scheduled for issuance in the upcoming year; DEQ's regulatory authority, timelines and processes for proposed new projects that may be of interest; the development of monitoring plans; presentations on monitoring results from the previous year; and other topics of interest. DEQ's tribal liaison asks the key contacts from each tribe how to best communicate the information and when letters to the tribal chairpersons are warranted.

3. Department Statement

In 2002, DEQ adopted a “Statement of Intent” to implement Executive Order 96-30 and the requirements of Senate Bill 770 (ORS 182.162-168), which direct state agencies to promote government-to-government relations with Oregon’s Indian tribes. In April 2010, DEQ updated its Tribal Relations Policy. The policy states that DEQ is committed to building and maintaining strong government-to-government relations with Oregon’s nine federally-recognized tribes. DEQ consults and coordinates with tribal nations on air quality, water quality and land quality issues that affect tribal interests, resources or lands. DEQ strives to build positive relationships with tribal leaders, managers, staff and representatives to understand tribal interests, explore opportunities for greater partnership and collaboration, and address tribal interests as much as possible in DEQ actions. State-Tribal partnership increases our collective ability to protect and enhance Oregon’s environment and people’s health.

The complete Tribal Relations Policy can be found at:

<http://www.deq.state.or.us/programs/tribal/tribalrelationspolicy.pdf>. DEQ implements the policy through regular meetings with tribal representatives at the staff, manager and leadership levels, and by seeking opportunities to collaborate with tribes on issues important to tribal governments.

4. Participation in the Government-To-Government Process

In 2016, DEQ engaged in the following government-to-government activities:

- In February 2016, DEQ's Director sent a letter to the chairpersons of Oregon's nine federally-recognized tribes to summarize DEQ's Strategic Directions, list the rulemakings scheduled for the Environmental Quality Commission's consideration in 2016 and request government-to-government meetings. In response, DEQ attended government-to-government meetings with the Coquille Indian Tribe and the Confederated Tribes of Grand Ronde tribal councils.
- In April 2016, DEQ sent letters to all of the tribal chairpersons that may have interest in the 401 certification process for the Hells Canyon Complex hydroelectric project in the Snake River in Oregon and Idaho. The letter summarized the proposed project and requested consultation on DEQ's decisions associated with the application. In response, DEQ attended a government-to-government meeting with the Burns Paiute Tribal Council.
- In June 2016, DEQ's interim Director sent a letter to the chairpersons of Oregon's nine federally-recognized tribes that outlined the leadership change at DEQ and initiated monthly telephone conference calls to the designee(s) of each of the federally-recognized tribes in Oregon to "open the discussion to any concern, questions, or comments that any of the tribes choosing to participate in the call may wish to offer about DEQ." The monthly calls are scheduled for the first Friday of every month at 9 a.m. for all of 2017.
- In July 2016, DEQ's Interim Director and The Director of the Oregon Health Authority (OHA) sent a joint letter to all of the chairpersons of Oregon's nine federally-recognized tribes to summarize Governor Brown's Cleaner Air Oregon Initiative, invite participation from each tribe on the Cleaner Air Oregon Regulatory Reform Advisory Committee and offer the opportunity to discuss and/or consult on the initiative and associated rulemaking. DEQ and OHA will follow-up with each tribe prior to the commencement of rule language development to consult and collect input on the path forward.
- In May 2016, DEQ's tribal liaison and other DEQ leadership representatives attended and participated in the Legislative Commission on Indian Services Spring Gathering in Florence for training on sovereignty.
- DEQ's tribal liaison and technical experts, when appropriate, attended the tribal-state natural resources cluster, cultural resources cluster, and economic development and community services cluster meetings held in 2016 as an important part of government-to-government relations under Senate Bill 770. DEQ followed-up with tribal representatives in a number of ways regarding topics and issues raised at those meetings.

In addition, DEQ provided the following government-to-government communications:

- In December 2015, DEQ sent an email to all natural resources key contacts summarizing the rulemaking plan to update Oregon's water quality standards for copper and offer to set up targeted meetings as would be helpful.
- In March 2016, DEQ sent an email to all natural resources key contacts providing an update on DEQ's water quality standards work regarding bacteria.
- In March 2016, DEQ sent an email to all natural resources key contacts with areas of interest in southwest Oregon summarizing the petition the Environmental Quality Commission received to designate the North Fork Smith River and its tributaries in southwest Oregon as Outstanding Resource Waters and the associated decision-making process.
- In April 2016, DEQ sent an email to natural resources key contacts of the tribes regarding the Environmental Quality Commission's recruitment process for the next permanent DEQ Director.
- Beginning in May 2016, DEQ sent periodic updates to the natural resources key contacts regarding DEQ's Agency Request Budget for 2017-19. When the Governor's Recommended Budget for DEQ is available, DEQ will provide that information.

In July 2016, DEQ phoned and followed up with emails to natural and cultural resources key contacts, as well as the Executive Director for the Legislative Commission on Indian Services regarding the news release and fish consumption sign associated with a cleanup project where there are elevated levels of dioxins in soil and sediment in and adjacent to the Willamette Slough in Salem. Subsequently, DEQ has had follow-up discussions with the tribes that have interest in that area and is working on a plan for engagement with the tribes on the cleanup project moving forward. Beginning in October of 2016, DEQ sent emails to key contacts at the tribes summarizing the list of water permits scheduled to be worked on in 2017 as well as cleanup projects in the queue where DEQ has not yet begun work. The email asked for feedback regarding each tribe's interest in any of the permits/cleanup projects so DEQ can develop a plan as needed to share information and consult with each tribe as needed.

DEQ greatly appreciates the leadership and partnership of tribal governments working with the state to protect the environment, people's health, as well as natural and cultural resources.

5. Internal Tribal Relations Action/Training

DEQ's internal tribal relations activities are focused on improving consultation and communication between agency and tribal managers and staff, as well as providing training to DEQ employees on tribal government, sovereignty and issues of interest to tribal nations.

- In April 2016, one DEQ manager attended the Oregon Parks and Recreation Department Archaeology Training Conference in The Dalles. The conference was led by an excellent instruction team including professional archaeologists and cultural specialists from the Oregon State Historic Preservation Office, Oregon universities, private consulting firms, and several Native American Tribes. This unique culmination of expertise and experience created an inspiring learning environment and served to present an understanding of the importance of cultural resources from both a scientific and tribal perspective. The DEQ participant learned a great deal that will be beneficial in the short and long term. DEQ aims to have staff and managers attend the conference as space allows each year.
- In November 2016, DEQ's tribal liaison participated and presented at the annual Oregon Tribal Environmental Forum hosted by the Confederated Tribes Grand Ronde and EPA. The discussion included a number of DEQ updates including: the Cleaner Air Oregon initiative; the water quality standards rulemaking for copper and the Outstanding Resources Waters designation; a summary of DEQ's schedule for toxics monitoring for the current and upcoming year; DEQ's groundwater monitoring program plan and request for input; a summary of the discussion regarding lessons learned from the Mosier train derailment; the current cleanup projects DEQ has been/will be working on with tribes; the upcoming draft 401 certification for the Hells Canyon Complex public notice; the 401 certification application for the removal of the Klamath Dam; an update on the Environmental Quality Commission's recruitment process for the DEQ Director position as well as the current leadership updates.
- Throughout the year, DEQ's tribal liaison advised and assisted DEQ managers and staff on issues of interest to tribal nations providing guidance for consulting and coordinating with tribal governments on many environmental activities.
- DEQ maintains a [Tribal Government Relations web page](#)¹ to provide information about the government-to-government process, federally-recognized Tribes, and DEQ's tribal relations activities. DEQ employees regularly use this site to learn about tribal nations and our government-to-government responsibilities.
- DEQ's tribal liaison and other DEQ representatives participated in the February Tribal Legislative Day and state training sessions held in Florence in May 2016; sponsored by the Legislative Commission on Indian Services.
- DEQ maintains an online training for DEQ staff and managers through iLearn, a state online tool for instruction. The training module covers the history of tribal-state relations in Oregon, tribal

¹ See www.deq.state.or.us/programs/tribal/index.htm.

sovereignty, government-to-government consultation and highlights opportunities for greater collaboration with tribes.

6. Summary of Program Related Issues/Activities

DEQ works to protect water, air and land quality across the state and interacts regularly with tribal managers and staff on a broad range of activities and issues. Primary areas of collaboration between tribal nations and DEQ over the past year are summarized below.

6.1. Improving Water Quality

Implementing more Stringent Water Quality Standards for Toxics Based on a Higher Fish Consumption Rate

DEQ continues to implement more stringent toxics criteria to protect human health based on a higher fish consumption rate. Final guidance documents for implementing permitting compliance tools, such as intake credits and variances, as well as guidance for addressing specific pollutants such as methyl mercury and arsenic can be found at: <http://www.deq.state.or.us/wq/pubs/pubs.htm#imds>.

DEQ has developed several memos specific to individual toxic pollutants to assist DEQ staff and the regulated community to consistently implement the criteria. Find these memos at: <http://www.deq.state.or.us/wq/standards/toxics.htm>.

Over the last year, DEQ's water permitting program has continued to implement the revised human health standards through renewed and newly issued wastewater permits. The current human health standards were adopted in 2011. During federal fiscal year 2016, DEQ issued 68 permits. Some of these permits include new toxics monitoring requirements for large municipal dischargers and industrial facilities with the potential to discharge toxic pollutants. In addition, facilities with known toxic pollutants in their discharge continue to be evaluated to assess their potential to exceed the human health standards. When industrial facilities are found to have the potential to exceed the standards, the permits contain stringent effluent limits designed to ensure compliance with the human health standards. As more high-quality discharge data are collected, DEQ will continue to evaluate the potential of each new and renewed permit to exceed the human health standards and will continue to condition permits appropriately.

Progress in Addressing EPA Aquatic Toxics Criteria Disapprovals

The Environmental Quality Commission adopted revised freshwater aquatic life copper criteria on November 2, 2016. The revised criteria were submitted to EPA and DEQ expects EPA to approve or disapprove the criteria in January 2017. Consistent with EPA's recommended criteria for copper and the National Marine Fisheries Service 2012 biological opinion, the newly adopted copper standard is the Biotic Ligand Model. This model derives site-specific instantaneous criteria based on ten water quality parameters that affect the toxicity of copper on aquatic life.

Progress in Revising Bacteria Standards for Coastal Waters

The Environmental Quality Commission adopted revised bacteria standards for coastal waters in August 2016, including EPA's recommended enterococcus criteria for contact recreation in coastal (saline) waters. In addition, the revised rules clarify where Oregon's three different bacterial indicator criteria

apply. The rule delineates the boundary between coastal waters and fresh waters for purposes of applying the correct contact recreations criteria – enterococcus and *E. coli* respectively. In addition, the rule identifies where the existing fecal coliform criterion for marine and shellfish-growing estuarine waters applies, which had not previously been explicit. This criterion protects shellfish consumption.

Additional Water Quality Standards Work in Progress

DEQ is conducting rulemaking to designate the North Fork Smith River in southern Oregon an Outstanding Resource Water and adopt policies to protect the existing high water quality. In April 2016, the Commission directed DEQ to conduct rulemaking in response to a citizen petition received in February 2016. DEQ expects to take public comment on the proposed rule in early 2017 and present a recommendation the Commission for adoption in June, 2017.

Two additional projects DEQ will work on this year are a Triennial Review of Oregon’s water quality standards and the development of a Cold Water Refuge plan for the lower Willamette River.

Columbia River Basin Toxics Reduction Action Plan

DEQ is working with the Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Confederated Tribes of Grand Ronde, Yakama Nation, Nez Perce Tribe, Upper Columbia United Tribes, Upper Snake River Tribes Foundation, Columbia River Inter-Tribal Fish Commission and EPA to develop and implement a Columbia River Toxics Reduction Strategy. In September 2010, EPA and the Columbia River Basin Toxics Reduction Working Group released the Columbia River Basin Toxics Reduction Action Plan outlining 61 actions to reduce a wide array of toxics in the Columbia River Basin.

In August 2011, Federal, State, and Tribal leaders signed the Columbia River Toxics Reduction Working Group Executive Statement that commits all signatories to a collaborative approach to reduce toxic pollutants in the Columbia River Basin through the formalization of the Columbia River Toxics Reduction Working Group. The working group includes the support of tribal nations and agencies to guide toxic pollutant reduction work in the Columbia Basin through collaborative decision-making.

Although the Columbia River Toxics Reduction Working Group did not meet in 2016, subgroups continued to meet. A new subgroup, The Columbia River Toxics Mapping Workgroup, is active in a collaborative effort with the Northwest Power and Conservation Council to develop geographic information system maps of polycyclic aromatic hydrocarbon hot spots in the Columbia River Basin. This effort is to serve as a pilot project, which will inform the hot spot mapping process of other toxic contaminants in the basin. The tribes, state and federal agencies, and nonprofit organizations are providing input and monitoring data for the pilot project.

DEQ Toxics Reduction Strategy

Representatives from the Confederated Tribes of the Umatilla Indian Reservation and the Confederated Tribes of Grand Ronde served as members of DEQ’s Toxics Stakeholder Group that helped establish the framework for a comprehensive toxics reduction strategy. Tribal nations are identified as key implementation partners for some of these draft recommended actions. Similar to the Columbia Basin Toxics Reduction effort, DEQ proposed five toxics reduction actions from the strategy as short-term priorities for implementation. These priorities are informed by the Columbia Basin toxics work and by an Oregon Governor’s Executive Order to advance “green chemistry” in Oregon. State government purchasing is one of the primary elements of the executive order. For the last four years, DEQ has been working with the Department of Administrative Services and the Governor’s Office to develop and implement low-toxicity purchasing initiatives and guidelines. The most recent effort involves reducing or eliminating the purchase of flame retardants and other priority toxic chemicals in furniture. Oregon is

working with Washington and California on this initiative, as well as other green chemistry and toxics reduction opportunities. The directors of west coast state environmental agencies recently signed a Memorandum of Understanding to support collaboration between states on green chemistry and safer products initiatives, including government purchasing. Tribal governments based in Oregon can join low-toxicity price agreements for specific categories of products. In addition, DEQ, along with the Columbia River Inter-Tribal Fish Commission is participating in Northwest Green Chemistry, a new regional organization that promotes green chemistry through a range of actions including conducting chemical alternatives assessments for priority toxic chemicals (e.g., copper boat paint). DEQ has also been intensively involved in the work of the Interstate Chemicals Clearinghouse (IC2), an organization focused on data regarding priority toxic chemicals and advancing tools that facilitate the transition to safer chemicals and products. The IC2 has begun reaching out to tribal representatives in the Northwest and other parts of the country to encourage participation in this organization. Finally, DEQ is in the process of updating and revising its Toxics Reduction Strategy to reflect new information and opportunities. As draft elements of the updated strategy are developed, DEQ will seek input and insight from tribal governments on toxics reduction priorities.

Monitoring toxic pollutants

During 2016, DEQ's Statewide Toxics Monitoring Program continued the second round of monitoring around the state. The monitoring consisted of three seasons of water samples and one summer sample of sediments in the Willamette and Northeast Oregon. DEQ collaborated with natural resource staff at the Confederated Tribes of Warm Springs, Confederated Tribes of the Umatilla Indian Reservation and the Confederated Tribes of Grande Ronde to determine the monitoring plan and collaborate on the work each tribe does. DEQ continues to communicate results from the previous year's sampling efforts with tribal representatives as the information is available.

Clean Water State Revolving Loan Fund

DEQ's Clean Water State Revolving Fund loan program continues to provide low-cost loans for planning, design and construction of projects that enhance or protect water quality. A federally recognized Indian tribal government is eligible as a public agency to apply to DEQ's loan program. Recent administrative rule changes now allow DEQ's loan program to offer loans to fund both wastewater treatment or nonpoint source projects with up to 30-year loan terms. The program awards principal forgiveness to eligible borrowers based on affordability, as well as for projects addressing water-efficiency, energy-efficiency or stormwater runoff mitigation.

Developing and implementing water quality improvement plans

Many tribal nations have worked collaboratively with DEQ over the past year to develop and implement plans to reduce pollution in waters across the state that currently do not meet water quality standards. Progress made on these clean water plans, also known as Total Maximum Daily Loads, or TMDLs, is summarized below.

- **Mid-Coast TMDL**

The Confederated Tribes of Siletz Indians of Oregon are active participants with DEQ and others in development of implementation-ready TMDLs for the Mid-Coast Basin. Representatives from the tribes are on the advisory committee and work with DEQ on topics related to sedimentation, drinking water protection and aquatic habitat in the Siletz subbasin. A cooperative study of dissolved oxygen and nutrient conditions is planned for 2017 with the tribes taking a lead role. The Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians collect monitoring data in the Siuslaw subbasin that helps to understand estuarine processes and protection of beneficial uses and can be used in TMDL development. Both tribal governments periodically provide water quality technical assistance to local partners, including watershed councils, Soil

and Water Conservation Districts and municipalities. Work on TMDL development will continue into 2017.

- **Coquille River TMDL**
DEQ has worked closely with the Coquille Indian Tribe to develop the Coquille TMDL to address pollution problems with dissolved oxygen, temperature, chlorophyll a, toxic algae, pH and bacteria. The Coquille Indian Tribe has provided valuable technical data for use in the development of the TMDL and continues to show interest in assuring that urban stormwater management strategies are an integral part of implementation.
- **Deschutes River Basin TMDL**
The Confederated Tribes of Warm Springs, DEQ and EPA are working together under a Memorandum of Understanding on the development and implementation of TMDLs for the Deschutes River Basin. Previous TMDL development efforts were halted in 2012 because of litigation associated with Oregon's temperature standard. At this point, DEQ is working to develop TMDLs for pH, dissolved oxygen and chlorophyll on the Deschutes River above Lake Billy Chinook and the Little Deschutes River. DEQ has begun the initial stages of monitoring for this effort and continues to consult with a tribal representative as part of this effort. Data collection continued through 2016.
- **Western Hood TMDL**
The Western Hood Subbasin, which includes the Hood River watershed, TMDL for temperature was approved by EPA in 2002. The Confederated Tribes of Warm Springs were active participants in TMDL development and have continued to participate in TMDL implementation. Both DEQ and the tribes are active members of the Hood River Watershed Group and technical stakeholder groups working with several of the irrigation districts to change district operations to improve water quality and fish habitat.
- **Middle Columbia-Hood (Miles Creeks) TMDL**
This TMDL for temperature was approved by EPA in 2009. DEQ has been involved with implementation activities since that time. Concerns about decreasing stream flows and the effects on stream temperature and aquatic habitat continue to be an issue in the Fifteenmile Creek watershed. There are a number of stakeholder initiatives underway under the guidance of the Fifteenmile Creek watershed council to better understand surface water-groundwater interactions and to protect instream flows. Representatives from the Confederated Tribes of Warm Springs and DEQ have been involved with a number of these efforts. The Confederated Tribes of Warm Springs are particularly interested in the Fifteenmile Creek watershed because of the presence of lamprey.
- **Umatilla Basin River TMDL Monitoring**
Water quality monitoring in the Umatilla Basin continues to be a cooperative effort between DEQ, the Confederated Tribes of Umatilla Indian Reservation and other basin stakeholders. DEQ, the tribes and the Umatilla Basin Watershed Council are currently collaborating on monitoring protocols for sediment loading and remote sensing, and are working to implement a more efficient way to upload, store and disseminate water quality data. As part of the cooperative monitoring effort, the Confederated Tribes of Umatilla Indian Reservation maintain temperature, sediment and flow monitoring sites within the Umatilla Basin and provide valuable technical support to the Umatilla Basin Watershed Council for composite sediment sampling.

In addition to these specific examples, many tribal nations work on TMDL implementation projects throughout Oregon such as channel reconstruction, fencing and flow restoration, levee elimination, and riparian planting to improve water quality.

Relicensing hydroelectric projects

Tribal nations and DEQ have worked together on the following hydroelectric relicensing projects over the past year:

Hells Canyon Hydroelectric Project - DEQ is currently reviewing a Clean Water Act Section 401 Certification application in association with Idaho Power Company's application to the Federal Energy Regulatory Commission for a new federal license for continued operation of the Hells Canyon Complex Hydroelectric Project. The Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Burns Paiute Tribe, Shoshone Paiute Tribe, Nez Perce Tribe, Shoshone Bannock Tribes, the Upper Snake River Tribes Federation and the Columbia River Inter-Tribal Fish Commission are interested in the relicensing process. DEQ looks forward to continued discussions as the 401 certification process progresses and anticipates posting the draft 401 certification for public notice in late 2016.

Pelton Round Butte Hydroelectric Project – DEQ and the Confederated Tribes of the Warm Springs Reservation are working with other stakeholders to implement the hydroelectric license for this project on the Deschutes River. Among other items, reintroduction of anadromous fish above the Pelton Round Butte project is required. The Confederated Tribes of Warm Springs have important roles as a regulatory entity, 401 water quality certification authority, Fish Committee member, and co-owner and co-licensee with Portland General Electric for the project. During 2016, DEQ, the tribe and Portland General Electric worked together to evaluate the water quality impacts of the new selective withdrawal structure at the Round Butte Dam, and to assess compliance with terms of the 401 certifications. DEQ and the Confederated Tribes of Warm Springs have entered into Interim Implementation Agreements with Portland General Electric every year since 2010. These agreements have allowed Portland General Electric to target compliance with the current state standards for temperature and dissolved oxygen, rather than the standards that were in place when the 401 certifications were issued in 2002. The Deschutes River Alliance is a local organization that formed to address concerns about the health of the lower Deschutes River since the selective withdrawal structure began operation in 2010. The Deschutes River Alliance filed a citizen law suit against Portland General Electric for past and continuing violations of the Clean Water Act.

Powerdale Hydroelectric Project – For many years, DEQ, the Confederated Tribes of Warm Springs and others were involved with a plan to decommission the Powerdale Dam on the Hood River, as required by a 2003 settlement agreement. The dam was removed in September 2010, allowing the Hood River to flow free of artificial structures for the first time in 87 years. In 2011, DEQ, the Confederated Tribes of Warm Springs and others participated in a series of meetings to attempt to negotiate the conversion of the Powerdale hydroelectric water right to an instream water right. The stakeholder group was not able to reach consensus. The Oregon Water Resources Department (OWRD) issued a proposed final order for the conversion in December, 2011. Protests of the order were received from National Marine Fisheries Service, the Confederated Tribes of Warm Springs, WaterWatch of Oregon, and the Middle Fork Irrigation District. OWRD, DEQ, and the Oregon Department of Fish and Wildlife have had several meetings to discuss some of the issues raised in the protests. OWRD represents the state in negotiations with the protestors. Three mediation sessions were held in 2015, with OWRD, the protestors and the U.S. Fish and Wildlife Service. After the third session, the parties came to the conclusion that the two basic perspectives were too far apart. Therefore, OWRD is considering the option of withdrawing the proposed order and going to rule-making.

Pesticide Stewardship Partnerships

Since 1999, DEQ has been using a voluntary, collaborative approach called Pesticide Stewardship Partnerships to identify problems and improve water quality associated with pesticide use. The Pesticide Stewardship Partnership approach uses local expertise in combination with water quality and pesticide expertise of state agencies and OSU to encourage and support voluntary changes which result in measurable environmental improvements. For more than ten years, The Pesticide Stewardship Partnership program was funded primarily by grants and contributions from tribal governments. However, in 2013, the Oregon Legislature adopted a \$1.5 million funding package for the Pesticide Stewardship Partnership program, with funds split between DEQ and the Oregon Department of Agriculture (ODA). The 2015 Legislature allocated a similar level of funding. This funding has allowed the program to expand to new watersheds and enhance monitoring approaches in existing watersheds. Funds have also been reserved to support much-needed pesticide waste collection events around the state, and for a small grant program for stewardship technical assistance activities in watersheds. In 2014 and 2015, DEQ worked with the Oregon Department of Agriculture and other state agencies to implement the expanded program. Pesticide monitoring was initiated on a pilot basis in 2014 and continued into spring 2015 in four new watersheds: Middle Deschutes, Middle Rogue, South Coast, and South Umpqua. Based on the results of this monitoring data, the Middle Rogue watershed was selected for implementation of a longer-term project in 2016. DEQ and the Oregon Department of Agriculture are working closely with numerous partners, including the Cow Creek Tribe in the South Umpqua, in each of the watersheds. A second phase of monitoring is being planned for 2017 in the South Umpqua and Middle Deschutes. These watersheds, as well as others will be evaluated for possible inclusion in the program in future years. In addition, project goal-setting and planning sessions were held with local project partners in all of the current watersheds. This planning activity will help state and local partners focus more effectively on the highest priority streams, pesticides and stewardship actions.

Since 2014, the Pesticide Stewardship Program has supported 17 waste pesticide collection events throughout the state. The program also partially funded three locally planned pesticide collection events or on-going programs in Tualatin, Hood River and La Grande. Significant statistics include:

1. Number of participants: 351
2. Total pounds collected: 209,000 (Does not include amount collected in Hood River or La Grande)

Additionally, over 15,000 pounds of empty, rinsed plastic pesticide containers were collected for recycling at these events. The two existing watershed-based Pesticide Stewardship Partnership projects that include active partnerships with tribes are:

Hood River Basin Pesticide Stewardship Partnership – Two initial pilot projects using the Pesticide Stewardship Partnership approach in Hood River and The Dalles have shown major improvements in water quality associated with changes in pesticide management practices. The Confederated Tribes of Warm Springs have been active partners in the Hood River Pesticide Stewardship Partnership since its inception, including being the primary funder of pesticide monitoring work in the watershed since 2006. DEQ and the tribe communicate on a regular basis and DEQ provides annual reports on the pesticide monitoring results. The Confederated Tribes of Warm Springs have provided consistent and generous financial support for Hood River Pesticide Stewardship Partnership monitoring activity conducted by the Hood River Soil and Water Conservation District and DEQ, and have worked closely with Oregon State University Extension and local grower groups to implement best management practices to minimize pesticide water quality impacts. In 2016, the Confederated Tribes of Warm Springs funded stream bed sediment monitoring at eight sites in the watershed. Many pesticides are more likely to adhere to sediments than stay suspended in the water column. Hence, this extensive sediment monitoring in the

Hood River will provide a comprehensive set of data on whether such pesticides are present, and allow DEQ to compare these results to water monitoring samples at the same locations. The grab sample monitoring results from 2015, presented to partners in early 2016, showed that levels of priority pesticides in surface waters remain low, demonstrating the continued success of partnership efforts. Significantly, there were no exceedances of the insecticide chlorpyrifos (Lorsban) throughout the year.

South Yamhill Basin Pesticide Stewardship Partnership – In 2010, the Confederated Tribes of the Grand Ronde, the Confederated Tribes of Siletz Indians and the Oregon Department of Forestry evaluated opportunities to start the first Pesticide Stewardship Partnership focused on managed forest areas, and to complement the Pesticide Stewardship Partnership effort in the central part of the Yamhill Sub-Basin. With the help of the tribal staff and the Oregon Department of Forestry, three stream monitoring locations were identified downstream of managed forests in the South Yamhill River watershed. The Confederated Tribes of the Grand Ronde have been collecting samples at these locations as an in-kind contribution to the Pesticide Stewardship Partnership project for the past six years. The monitoring data generated by DEQ is shared annually with the all of the project partners. No analytes were detected in 2014 samples, but some low levels of herbicides associated with forestry activities were detected in the fall of 2015. Overall, this is positive news for all partners in the watershed. However, DEQ, Oregon Department of Forestry and the Confederated Tribes of Grand Ronde continue to work towards more precisely timed and located sample collections to correspond with forest herbicide applications, and more understanding of which pesticides are used, thereby providing more confidence in future monitoring results.

Other Water Quality Projects

- **Umpqua Basin**
The Cow Creek Band of Umpqua Tribe of Indians cooperate with DEQ and local partners to assess toxics in the South Umpqua through a pilot project of the Pesticide Stewardship Partnership as well as through tribal-led efforts. DEQ is exploring additional collaborative monitoring and assessment projects with natural resources staff at the Tribe and Partnership for the Umpqua Rivers. The tribe has also served as a natural resources hub for local and state agencies through periodic meetings and forums.
- **Willamette River Report Card**
DEQ is working with a multi-agency group to develop ecosystem health indicators, thresholds and a framework for an ecosystem health report card for the Willamette River. The group includes representatives from the Confederated Tribes of the Warm Springs and the Confederated Tribes of the Grande Ronde.
- **Umatilla Basin TMDL Technical Team**
DEQ participates with the Confederated Tribes of the Umatilla Indian Reservation in a technical advisory team for a basin-wide hydrogeology assessment. The assessment is designed to address key questions in water resources management in the basin as well as water quality. This team is currently exploring potential changes to its role in directing the implementation of the TMDL and acting as technical advisor in water quality and quantity projects throughout the basin.

6.2. Improving Air Quality

Cleaner Air Oregon

On April 6, 2016, Governor Kate Brown announced the launch of Cleaner Air Oregon, a new initiative to reform industrial air toxics regulations and align them with public health. The Oregon Department of Environmental Quality (DEQ) and the Oregon Health Authority (OHA) have begun a formal rulemaking process to engage the public in creating human health risk-based rules for industrial facilities for consideration by the Environmental Quality Commission. DEQ and OHA provide regular updates to the state tribal cluster groups on this work and anticipate conducting outreach with the nine federally-recognized tribes in March 2017 regarding the rulemaking.

Partnering with tribal nations on air monitoring

The Confederated Tribes of the Umatilla Indian Reservation assist DEQ in the operation of air quality monitoring stations in Pendleton and Hermiston since DEQ no longer has staff available to operate the sites. When requested, DEQ assists the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians with operation and maintenance of a fine particulate air quality monitor in Coos Bay, providing technical assistance and training at the monitoring site. DEQ welcomes the opportunity for greater partnership with tribal nations to establish and operate air quality monitoring stations. DEQ can provide technical assistance, data analysis and data reports to support tribal monitoring projects.

Responding to open burning complaints and asbestos issues

DEQ works closely with tribal nations to respond to complaints about open burning and the safe handling of asbestos, particularly when complaints occur near tribal land. DEQ, tribal governments and tribal police departments work quickly and collaboratively to address complaints when they arise.

Partnering with tribal nations on local air quality improvement

In 2014, DEQ initiated the formation of a local North Harney County Air Quality Task Force. This is a local, voluntary effort aimed at reducing woodstove smoke emissions that cause intermittent violations of the federal air quality standards and to protect against effects of small-particulate emissions on local public health conditions. The local air-shed is composed of the cities of Hines and Burns, the Burns-Paiute Reservation and adjacent and nearby unincorporated areas of Harney County. Through 2016, the Environmental Program Manager for the Burns-Paiute Tribes has consistently participated in the formation and scoping of the task force.

6.3. Improving Land Quality

Emergency Response

On April 20th, a DEQ emergency response representative met with tribal members along with representatives of the State of Washington spill program, Washington and Oregon Governor's offices, EPA and US Coast Guard to discuss the transport of energy commodities such as coal and crude oil along the Columbia River corridor. This listening session was attended by the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs, and the Yakama Nation. Much of the conversation focused on safety and preparedness to strengthen response in the region and alternatives to the transport energy sources through the gorge.

DEQ's Emergency Response Program contacts tribes for significant incidents throughout the state. In the first 10 months of 2016, DEQ had contacted tribes concerning spills on 23 separate incidents to ensure cleanup actions were undertaken in a manner to protect cultural and/or natural resources.

DEQ worked with the Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Yakama Nation, and the Nez Perce Tribe in responding to the Union Pacific train derailment that occurred in Mosier on June 3, 2016. This included extensive monitoring for cultural resources during ground disturbance associated with removal of contaminated soil and installation of equipment to monitor and clean up contaminated groundwater. DEQ continued coordination to tribal natural resource trustees concerning potential natural resource damage assessment should final cleanup not fully protect the Columbia River.

Environmental Cleanup

DEQ and tribal nations have collaborated on a number of projects over the past year to investigate and clean up contaminated lands across the state. DEQ contacts tribal nations when working on projects in their areas of interest. Sites where DEQ engaged tribes with tribes during 2016 include:

Astoria Marine – During 2016, DEQ continued coordination with representatives from the Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz Indians of Oregon, the Nez Perce Tribe and Yakama Nation to get their review and input on the Staff Report (DEQ proposed plan) for the remedy at this cleanup site. The site is located along the Lewis and Clark River near Astoria, Oregon and the project was deferred to DEQ by EPA in 2012 for all cleanup work. DEQ's work with the tribes is guided by government-to-government memorandums of understanding between DEQ and these tribes. DEQ will continue to communicate with tribal governments on project milestones and to ensure that tribal concerns are considered in development of the Remedial Design/Remedial Action Plan (cleanup plan) at the marine facility.

Portland Harbor – DEQ works closely with six tribal governments on the Portland Harbor Superfund Site. The Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz Indians, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Yakama Nation, and Nez Perce Tribe are partners in these projects. DEQ, tribal partners, EPA, and National Marine Fisheries Service representatives meet regularly discuss technical issues on this regionally important cleanup project.

The Portland Harbor Superfund Site is located in the Lower Willamette River, stretching approximately ten miles from River Mile 2 to River Mile 12. DEQ provides technical support and works to ensure that

Oregon state rules are applied to the project in support of EPA, as the lead agency working on investigating and cleaning up pollution in the river itself. DEQ leads the work controlling contaminants in upland areas to prevent recontamination of the river following EPA's in-water cleanup. Prior to making source control decisions, DEQ solicits input from the tribes.

In 2016, to support EPA's Proposed Plan and the Record of Decision, DEQ provided an updated Portland Harbor Source Control Summary Report which documents the source control work completed and the remaining work with associated schedules. EPA referred to DEQ's report as a supporting document in the Proposed Plan and will continue to rely on it for the Record of Decision and implementation efforts.

Northridge Estates – North Ridge Estates was added to the National Priorities List, known as Superfund, after being nominated by DEQ in September 2011. North Ridge Estates is a residential subdivision located approximately three miles north of Klamath Falls, Oregon. The site is contaminated with asbestos-containing materials resulting from the demolition of approximately eighty 1940s-era military barracks buildings. EPA is the lead agency for the project, but works closely with DEQ. The federal government approved funding to perform remedial actions at the North Ridge Estates Site in March 2014. EPA started on-site work in 2016. There is continued coordination between state and federal agencies, the Klamath Tribes, and the State Historic Preservation Office.

Bradford Island – DEQ continued work with the Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Yakama Nation, Nez Perce Tribe and the U.S. Army Corps of Engineers to evaluate contamination levels at Bradford Island in the Columbia River. The U.S. Army Corps of Engineers continues to evaluate the effects of contamination on Bradford Island and in the Columbia River near the island. The primary concern is PCBs from electrical components that were dumped into the river decades ago. Cleanup so far has involved efforts in 2000 and again in 2002 to remove electrical components from the river, and dredging of contaminated sediment in 2007. Despite this work, fish tissue sampling indicates that further remediation is needed. In 2016, DEQ joined these tribes in reviewing the human health and ecological risk assessments as well as a feasibility study for the upland portion of the site.

Coos Head Air National Guard clean-up site – DEQ continues to coordinate with the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians on the cleanup projects at the Coos Head site. The site was acquired by the tribes in 2005. It was formerly owned by the federal government, which is responsible for paying costs associated with cleaning up the site to industrial standards. DEQ oversees the work being done by the Air National Guard, the U.S. Navy, coordinating with the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians and the Bureau of Indian Affairs to complete the cleanup work at the site as quickly as possible. Much of the site has already been remediated. A Record of Decision that selects the remedy for the site was signed in September 2012. A building located on a source area for contamination was removed in September 2012. Approximately 3,200 cubic yards of contaminated soil at the site was removed in July and August 2013. DEQ issued a partial No Further Action for soil at the site in December 2013. Groundwater work was completed at the site in 2016. The US Navy is also working with the tribes to remove an additional source of petroleum hydrocarbons found in the course of the groundwater remediation effort. The final No Further Action is anticipated to be issued in 2017.

Willamette Slough – DEQ is beginning the work necessary to investigate dioxins that have been found in the sediments of Willamette Slough near Salem. Willamette Slough is located where Pringle Creek joins the Willamette River. Sediment contamination could affect fish, and since fishing occurs in that location, DEQ has posted signs warning of the potential hazard of eating fish caught in that area. A former paper mill was located at the site and DEQ is currently negotiating an Order of Consent with the responsible party. DEQ will be reaching out to the Confederated Tribes of Grand Ronde and the Confederated Tribes

of Siletz Indians for input when work begins at the site in 2017. The initial objectives of the work will be to characterize the nature and extent of contamination in the sediments of Willamette Slough and to determine if fish living in that area are safe to eat.

DEQ anticipates continued coordination activities with tribal representatives on these sites in 2017. In addition, DEQ will be coordinating activities for several cleanup sites around the state including locations in Scappoose Bay such as the Armstrong World Industries site, the Port of St. Helens facility, and any other sites that are of interest to any tribe.

Umatilla Chemical Agent Disposal Facility

Throughout 2016, DEQ continued to communicate with the Confederated Tribes of the Umatilla Indian Reservation on DEQ's oversight of the Umatilla Chemical Depot. Pursuant to a Memorandum of Agreement between DEQ and the Confederated Tribes of the Umatilla Indian Reservation, the two parties consult, coordinate and communicate on a government-to-government basis on matters related to state permitting activities that apply to the U.S. Army's closure of hazardous waste permits at the Depot.