


# 2018 Annual Government-to-Government Report on Tribal Relations

*Submitted to:*

Oregon Legislative Commission on Indian Services  
Environmental Quality Commission

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



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Department of  
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# Executive Summary

This Oregon Department of Environmental Quality Annual Government-to-Government Report on Tribal Relations provides an update on efforts and actions during 2017 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, 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 in Oregon and communicates formally through in-person meetings, correspondence via letters and emails, as well as 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 air, water and land.

# 1. Agency Contacts

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## 2. Agency Interest Areas

As the State of Oregon's environmental protection agency, the Department of Environmental Quality coordinates with the nine federally recognized tribal governments in Oregon on issues related to air, water and land quality. DEQ's work is linked to the work of tribal governments through natural resources, cultural resources, as well as community and economic development programs. 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 (such as 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 contacts for each tribe on relevant topics, 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 or policies that may be of interest; development of monitoring plans; presentations on monitoring results from the previous year; and other relevant topics. DEQ's tribal liaison asks the key contacts from each tribe how to best communicate relevant information.

## 3. Agency Statement

In 2002, the Oregon Department of Environmental Quality 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 tribal governments. 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, water 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. These partnerships increase our collective ability to protect and enhance the health of Oregon’s people and environment.

The complete Tribal Relations Policy can be found at: <http://www.oregon.gov/deq/about-us/Pages/tribal.aspx>. 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 2018, the Oregon Department of Environmental Quality engaged in the following government-to-government activities:

- In February 2018, DEQ's director attended the Legislative Commission on Indian Services meeting and a brown bag luncheon with tribal leaders from the Legislative Commission on Indian Services and other tribal leaders in conjunction with Tribal Government Day.
- In April 2018, DEQ's director sent a letter to the chairpersons of Oregon's nine federally recognized tribes with a summary of all of the rulemakings scheduled for the Environmental Quality Commission's consideration in the upcoming year and a half. The letter also requested government-to-government meetings between DEQ and each of the tribal governments to discuss the proposed rulemakings and any other topics of interest.
- In May 2018, DEQ's tribal liaison and other DEQ leadership representatives attended and participated in the Legislative Commission on Indian Services' spring gathering at Willamette University.
- In August 2018, DEQ's director sent a letter to the chairpersons of Oregon's nine federally recognized tribes regarding the proposed mercury variance rulemaking for the Willamette Basin and requested participation in the rulemaking process and consultation.
- In September 2018, the Environmental Quality Commission and DEQ's director met with members and representatives of the Klamath Tribal Council in Klamath Falls for discussion of environmental issues and actions of shared concern within the Klamath basin region.
- In November 2018, DEQ's director and an additional staff representative of the directors office participated in the Legislative Commission on Indian Services' fall gathering and annual training and the State-Tribal Annual Summit in Grand Ronde.
- DEQ's tribal liaison and applicable technical experts attended the tribal-state natural resources cluster and cultural resources cluster meetings held in 2018 as an important part of government-to-government relations. DEQ followed up with tribal representatives in a number of ways regarding topics and issues raised at those meetings.
- DEQ continued to host monthly calls the first Friday of each month at 9 a.m. as an opportunity for tribal representatives to have open discussion with the tribal liaison and DEQ's director or deputy director.

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



- Throughout 2018, DEQ in partnership with other state agencies has met several times with representatives from the Klamath Tribes, Cow Creek Band of Umpqua Tribe of Indians, Coquille Indian Tribe, Confederated Tribes of Siletz Indians, Confederated Tribes of the Grand Ronde, and the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians on the proposed Jordan Cove Energy Project.
- In May 2018, DEQ sent an email to all tribal natural resources key contacts with information on DEQ's draft methodology and call for data for Oregon's water quality assessment. The email included a schedule and offer to set up discussions with those interested.
- In August 2018, DEQ sent an email to all tribal natural resources key contacts providing an update on the 2018 rulemaking plan regarding DEQ's Vehicle Inspection Program, monitoring of Oregon lakes project, and update on the Household Hazardous Materials Management Plan, with a request to participate in the processes.
- In July 2018, DEQ sent an email to all tribal natural resources key contacts regarding a grant opportunity for projects associated with prevention, recovery or reuse of solid waste and invited participation in a webinar for tribal governments.

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

## 5. Internal Tribal Relations Action and Training

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

- In October 2018, DEQ participated and presented at the annual Oregon Tribal Environmental Forum hosted by the Coquille Indian Tribe and the U.S. Environmental Protection Agency. DEQ co-presented about the permitting processes for the proposed Jordan Cove liquefied natural gas and Pacific Connector Pipeline projects in collaboration with the Federal Energy Regulatory Commission, U.S. Army Corp of Engineers, EPA, and Oregon Department of Energy.
- In October 2018, three DEQ representatives attended the Archeology Awareness training that the Oregon Department of Parks and Recreation hosted in North Bend.
- In November 2018, two DEQ representatives attended the Culture Summit hosted by the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.
- 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 webpage](#)<sup>1</sup> 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 sponsored by the Legislative Commission on Indian Services.
- DEQ maintains an online training on tribal relations 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 sovereignty and government-to-government consultation, and highlights opportunities for greater collaboration with tribes.

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<sup>1</sup> See <http://www.oregon.gov/deq/about-us/Pages/tribal.aspx> .

## 6. Summary of Program Related Issues and Activities

The Oregon Department of Environmental Quality works to protect air, water and land quality across the state and interacts regularly with tribal leaders 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. DEQ developed guidance documents for implementing permitting compliance tools, such as intake credits and variances, and for addressing specific pollutants such as methyl mercury and arsenic. DEQ has developed several memos specific to individual toxic pollutants to assist DEQ staff and the regulated community to consistently implement the criteria.

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. Some of the permits include new toxics monitoring requirements for large municipalities and industrial facilities with the potential to discharge toxic pollutants. In addition, DEQ continues to evaluate facilities with known toxic pollutants in their discharge to assess their potential to exceed the human health standards. When industrial facilities are found to have the potential to exceed the standards, their permits contain stringent effluent limits designed to ensure compliance with the human health standards.

DEQ has begun to implement the new copper criteria, which was approved by the Environmental Quality Commission on November 6, 2016 and EPA on January 9, 2017, into new and renewed permits when applicable. In addition, several permits have been evaluated for reasonable potential to exceed the water quality criteria for copper and applicable permits currently have monitoring requirements that will provide data that will be evaluated according to the copper criteria during the next permit cycle.

#### **Water Quality Permitting**

DEQ has had multiple conversations with representatives from the Confederated Tribes of Umatilla Indian Reservation over that last year regarding the ongoing noncompliance with a Concentrated Animal Feeding Operation (CAFO) permit in the Lower Umatilla Basin Groundwater Management Area. Both DEQ and the tribe continue to be concerned about potential increases to the existing elevated concentration of nitrate in the groundwater in that area.

DEQ and representatives from the Confederated Tribes of the Umatilla Indian Reservation have been collaborating on mechanisms to provide for permitting a fish hatchery on the South Fork of the Walla Walla River. The tribe has been planning the hatchery since 1989 and planning, funding and environmental studies are all in place to launch the project. The relatively recent dissolved oxygen 303(d) listing in the river they are discharging to complicates the permitting options. DEQ and tribal representatives are working through options.

### **Implementation of Senate Bill 3 Regarding Suction Dredge Mining**

DEQ revised its 700PM water quality general permit for in-water placer mining to incorporate changes required by Senate Bill 3, which was passed during the 2017 Legislative Session. The 700PM general permit regulates discharges from suction dredges and in-water nonmotorized mining equipment. The permit went into effect May 7, 2018, and the modifications include operating conditions and restrictions, revised fees and new application requirements.

### **Aluminum Criteria**

The U.S. EPA is expected to publish a proposed aluminum aquatic life rule for Oregon by March 15, 2019. A 45-day public comment period will follow. The proposed rule for Oregon will be based on the new national 304(a) criteria for aluminum. The new criteria uses a water-quality based multi-linear regression model of organic carbon, hardness, and pH to calculate site-specific criteria for aluminum.

### **Mercury Variances for the Willamette Basin**

DEQ has initiated a rulemaking process to develop a multiple discharger variance for mercury in the Willamette Basin. Under the variance, qualified facilities will be given permit limits that reflect the best effluent condition they can achieve, and will also be required to implement a mercury reduction plan to reduce mercury loads to the Willamette Basin. A representative of the Confederated Tribes of Grand Ronde is serving on the Advisory Committee for this rulemaking. DEQ also is in the process of developing individual variances for four Clean Water Services wastewater treatment plants that discharge to the Tualatin River.

### **Triennial Review**

In 2017, DEQ conducted a process to prioritize water quality standards review projects that it expects to conduct in the next three to five years. The review included a public comment and input process including a series of public meetings and webinars including two directly geared to provide information and obtain input from DEQ's tribal partners. DEQ released its final three to five year work plan in January 2018.

### **Lower Willamette Cold-Water Refuge Plan**

DEQ is developing a cold water refuge plan for the lower Willamette River in response to a federal requirement resulting from a court opinion. DEQ will complete a draft analysis of existing cold water refuge availability and utilization by the end of 2018. DEQ expects to deliver a final report in November 2019. The final report will incorporate the draft analysis, peer review and expert opinion on refuge sufficiency for needs of migrating adult salmon, and stakeholder input on priorities for cold water refuge protection and enhancement.

### **Integrated Report**

A representative from the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians continues as a member of the Integrated Report work group, which plans to reconvene this winter to review DEQ's draft 303(d) list. DEQ conducted a data call in summer 2018 and completed its methodology in fall 2018. Input from the Integrated Report work group was incorporated into the methodology document, which will be used to perform the 2018 assessment and generate a 303(d) list. In 2019, the work group will review and comment on DEQ's Integrated Report and 303(d) submittal to EPA, and will provide input and recommendations for future water quality assessment improvements.

### **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 2018, EPA reconvened the Columbia River Toxics Reduction Working Group, which will now be known as the Columbia River Basin Restoration Working Group to reflect its connection with the 2016 Clean Water Act Amendment 123 requiring EPA to establish a Columbia River Basin Restoration Program. The group established short term goals including updating the 61 actions to reduce toxics, updating the contaminants of concern, drafting a program management plan and identifying entities who should have representation in the working group.

### **Willamette River Toxics Reduction Partnership**

The Willamette River Toxics Reduction Partnership is a joint commitment by DEQ and EPA articulated in the Record of Decision for the Portland Harbor Superfund Site. The purpose is to work collaboratively with interested parties to understand and reduce upstream toxics in the Willamette River that could negatively impact the success of the Portland Harbor cleanup plan. The initial work effort was a review of existing data and reduction efforts to help determine priorities for further toxics reductions. The depth and breadth of this project is directly related to the level of available funding.

The area of focus is between River Mile 12 and Willamette Falls (River Mile 26), and includes tributaries to this stretch of the Willamette River. DEQ gave priority to potential upstream sources of Portland Harbor Record of Decision contaminants of concern, including focused contaminants, such as PCBs (polychlorinated biphenyls), DDT (dichlorodiphenyl-trichloroethane), PAHs (polycyclic aromatic hydrocarbons) and dioxins/furans.

DEQ and EPA convened the first stakeholder meeting on May 24, 2017. There were approximately 60 participants, representing a wide range of governmental agencies, tribes, municipalities, universities, consultants and watershed councils. The Steering Committee met in January, May and October 2018 and shared toxics monitoring and reduction efforts. Out of these discussions, the Steering Committee coalesced around the idea of developing a Story Map as a tool for communicating toxics reduction efforts, rather than through a traditional written report. DEQ and EPA are seeking additional information from partners to complete the draft Story Map. DEQ provided Story Map information on relevant regulatory and non-regulatory program activities that address toxics in the Lower Willamette.

In 2017 and 2018, DEQ used an EPA grant to collect samples in the Upriver Reach, River Miles 16 to 26. Areas were prioritized for characterization based on historical data, proximity to potential sources, and areas of accumulated soft sediment. DEQ distributed and presented the sampling plan and subsequently the results, to members of the Steering Committee. To complement this work, DEQ, the City of Portland and the Oregon Department of Transportation conducted investigations at River Mile 16.5 (near the Sellwood Bridge) and River Mile 12 (just upstream of the Portland Harbor Superfund Site). The results of the sampling indicated that the Upriver Reach is much less contaminated than the Portland Harbor Superfund Site, and is not expected to adversely impact the Portland Harbor Superfund Site cleanup.

In October, EPA was successful in securing an EPA Urban Waters Program grant. The objective of this funding is to connect with and engage diverse populations, including tribes, in toxics reduction activities in the Willamette Basin. The focus will be on stormwater, watershed management activities and the development of outreach tools, including updates to the Story Map, to inform and engage community members in these work efforts. For additional information about this partnership, meeting content, or associated studies, please go to the following website: <https://www.epa.gov/columbiariver/willamette-watershed-toxics-reduction-partnership>.

### **DEQ Integrated 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 in 2012 that helped establish the framework for DEQ's comprehensive toxics reduction strategy. The implementation of some strategy actions have involved tribal participation, particularly the Pesticide Stewardship Partnership program and efforts to advance safer chemistry in products. The National Tribal Toxics Council recently became a member of the Interstate Chemicals Clearinghouse, and the council's representative works for the Columbia River Inter-Tribal Fish Commission. As a result, tribal concerns and priorities on toxic chemicals and alternatives are now incorporated into the Interstate Chemicals Clearinghouse's plans, tools and resources.

DEQ plans to present its updated integrated toxics reduction strategy to the Environmental Quality Commission in 2019. DEQ is proposing to build on some 2012 strategy actions, while others will be new actions intended to improve toxics assessment and reduction efforts. The goal is to complement and support DEQ's core air, water and land quality toxics work. DEQ is also developing implementation plans for each of the proposed strategy actions, which will describe how and when the work tasks will be accomplished. Many of the actions will require collaboration with partner agencies and organizations. DEQ will reach out to tribal government partners to solicit input on the strategy and specific proposed actions for which they may have an interest in working with DEQ to implement.

### **Monitoring Toxic Pollutants**

During 2018, DEQ's statewide toxics monitoring program did not collect samples. During this time, data from 2015-2017 are being analyzed and reported on. These results will be shared with the tribes in early 2019. In addition, planning will take place for the 2019 monitoring efforts in early 2019. DEQ will engage with tribal representatives in the geographic areas where sampling will be conducted.

### **Mid-North Coast Monitoring Summit**

As part of the interagency group known as the STREAM TEAM, DEQ organized, in conjunction with other agencies, and participated in the Mid-North Coast Monitoring Summit. This summit brought together representatives from several tribes as well as state and local agencies, volunteer groups, industry and others. Presentations provided information on data tools, monitoring efforts and other water quality activities occurring on the coast. The STREAM TEAM plans to continue these summits in different geographic areas in the future.

### **Statewide Groundwater Monitoring**

DEQ's Statewide Groundwater Monitoring program sampled in the Harney Basin in 2018. Representatives of the Burns-Paiute Tribe attended meetings for this study. This program conducts sampling on a rotating basin approach. As it moves into new areas, DEQ will continue to engage with tribal representatives in the sampling areas and provide the monitoring results to all interested.

### **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. Federally recognized tribal governments are eligible to apply to the loan program. The program offers loans for wastewater treatment, as well as stormwater and nonpoint source watershed protection projects. 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 governments 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.

- **Willamette Basin Mercury TMDL**

DEQ is assisting the EPA-led outreach to tribes who have expressed interest in the Willamette Mercury TMDL project. The tribes include Confederated Tribes of Warm Springs, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz Indians, Nez Perce Tribe of Idaho and Confederated Tribes and Bands of the Yakama Nation. DEQ provides tribal representatives with regular project updates. The tribes have an open invitation to participate in advisory committee meetings and to become members of the advisory committee. In April, EPA held a phone conference to provide background information and project progress. Representatives of Grand Ronde, Nez Perce and Columbia River Inter-tribal Fish Commission participated. EPA is arranging for another meeting before the end of 2018 to present and discuss interim modeling results.

- **Mid-Coast Basin TMDLs**

The Confederated Tribes of Siletz Indians are active participants with DEQ and other stakeholders in development of temperature and dissolved oxygen TMDLs for the Mid-Coast Basin. Representatives from the tribe are members of the local advisory committee that works with DEQ on topics related to temperature, dissolved oxygen, sedimentation, drinking water protection and aquatic habitat throughout the Mid-Coast Basin. A cooperative monitoring project to characterize dissolved oxygen and nutrient conditions was conducted in 2017, with the tribe providing both technical support and in-kind match to the estuarine portion of the project. Elements of the project continued into 2018. The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians are an active participant with DEQ and other state and local agencies in the Mid-Coast Water Planning Partnership convened by the Oregon Water Resources Department and the City of Newport under the state's Integrated Water Resources Strategy. The Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians conduct water monitoring in the Siuslaw Subbasin that helps to characterize estuarine conditions, assist in protection of beneficial uses like recreational shellfish collection, and provide data that can be used in TMDL development. Both of these tribal governments periodically provide water quality and other technical assistance to local organizations, including watershed councils, Soil and Water Conservation Districts and municipalities.

- **Coquille River TMDLs**

DEQ continues to work closely with the Coquille Indian Tribe to develop the Coquille River TMDLs to address pollution problems with dissolved oxygen, temperature, bacteria, chlorophyll and pH. The tribe has provided valuable technical data and mapping support in the development of the TMDLs and continues to remain engaged in assuring that urban stormwater management strategies are an integral part of TMDL implementation. Coquille Indian Tribal representatives have served on the local advisory group for the Coquille River TMDL in the past and are expected to participate again in 2019 when DEQ reinitiates the Coquille River Advisory Group. DEQ has also communicated with representatives from the Cow Creek Band of Umpqua Tribe of Indians staff for their input on the Coquille River TMDL. Tribal input into the Coquille River TMDL development process has been both informative and supportive in the ongoing efforts to improve water quality and fish habitat conditions on the Oregon South Coast.

- **Deschutes River Basin TMDLs**

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. DEQ is planning to develop TMDLs for pH, dissolved oxygen and chlorophyll on the Deschutes River above Lake Billy Chinook and the Little Deschutes River. DEQ completed data collection for this effort in 2016 and plans to begin TMDL modeling in 2019. DEQ will continue to connect with tribal representatives as part of this effort.

- **Western Hood Subbasin TMDL**

Revisions to the 2001 Western Hood TMDL was approved by EPA in 2018. The Confederated Tribes of Warm Springs provided temperature and flow data that was used in the new Wasteload Allocation analyses in the TMDL revision. Both DEQ and the tribe are also 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.

In addition to these specific examples, many tribal governments 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 Foundation 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 2018 or early 2019.

#### **Pelton Round Butte Hydroelectric Project**

DEQ and the Confederated Tribes of Warm Springs 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 2017, DEQ, the tribes and Portland General Electric continued to work 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 has filed a citizen law suit against Portland General Electric for past and continuing violations of the Clean Water Act. In 2018, DEQ and representatives from the Confederated Tribes of Warm Springs were both amici in this lawsuit, arguing against some of the allegations. The tribe later became a party to the suit as a co-operator of the facility. DEQ provided review of proposed water quality standards the tribe has proposed. DEQ expects to begin modification of the Pelton Round Butte 401 Certification which will be a coordinated process between DEQ and the Confederated Tribes of Warm Springs.

### **Klamath Hydroelectric Project**

DEQ has partnered with the Klamath Tribes and more than 40 other stakeholders to develop and implement the Klamath Hydroelectric Settlement Agreement. This historic agreement, amended in 2016, will lead to the removal of four hydroelectric dams on the Klamath River and restore access to more than 350 miles of salmon habitat in the upper basin for the first time in a century. Under the amended Klamath Hydroelectric Settlement Agreement, PacifiCorp, who currently owns the dams, will transfer ownership of the project to the Klamath River Renewal Corporation. The Klamath River Renewal Corporation will then seek license surrender from the Federal Energy Regulatory Commission and oversee the eventual decommissioning of the dams. Dam removal is scheduled to begin in January 2020. DEQ issued a 401 water quality certification in September 2018 for the proposed removal of the J.C. Boyle Dam, which is one of four dams on the Klamath River slated for removal and the only one in Oregon.

### **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 Oregon State University to encourage and support voluntary changes that result in measurable environmental improvements. The 2017 Legislature allocated over \$1.6 million to the Oregon Department of Agriculture and DEQ to implement the Pesticide Stewardship Program through June 30, 2019.

The Cow Creek Tribe has been involved in the pilot pesticide monitoring activity in the South Umpqua, and the Confederated Tribes of Warm Springs has been actively contributing time and resources to the Hood River project since the early 2000s. In addition, the Confederated Tribes of the Grand Ronde conducted stream sampling for the South Yamhill Pesticide Stewardship Partnership between 2010 and 2016. Based on the monitoring data findings in the South Yamhill, active monitoring was discontinued in 2017. DEQ and ODA met with representatives from the Confederated Tribes of Grand Ronde in 2018 to review the results of the report on the South Yamhill project, and to get their input. In 2018, the inter-agency team overseeing the Pesticide Stewardship Program began initiating a renewed strategic planning approach with local watershed partners to ensure consistent and effective implementation of activities at the local level. One objective is to ensure all potentially interested partners are invited to participate in the project. Tribal government presence in each of the watersheds will be assessed, with the goal of gaining increased participation of tribal partners.

### **Integrated Water Resources Strategy**

DEQ participates in the statewide work to implement the water quality recommendations in Oregon's Integrated Water Resources Strategy. One of the initiatives is place-based planning, which provides a framework for communities to understand and meet their water needs now and into the future. DEQ participates in the development of the four collaborative water plans throughout Oregon and provides technical assistance as needed. The current plans under development are: Mid-Coast Region, Lower John Day Subbasin, Upper Grande Ronde Subbasin, and the Malheur Lake Basin. Tribal representatives participate in each of the planning efforts.

Another Integrated Water Resources Strategy initiative is Oregon Water Resources Department's Water Project Grant and Loan Program. This program provides grants and loans for projects that increase water supply to meet instream or out-of-stream needs. DEQ participates on the Technical Review Team to review the economic, environmental, social and cultural benefits of each grant application. As part of that review team, DEQ considers comments from tribes and the public when making funding recommendations to the Oregon Water Resources Commission.

Additionally, DEQ participated on the Rules Advisory Committee for Oregon Water Resources Department conversion of a Hydroelectric Right to an Instream Right. As part of the team, DEQ worked with tribes, state agencies, and other stakeholders to provide rule recommendations to the Oregon Water Resources Commission.

## **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. DEQ and the Oregon Health Authority implemented a rulemaking process to engage those interested in creating human health risk-based rules for industrial facilities for consideration by the Environmental Quality Commission. Throughout the process, DEQ and OHA provided regular outreach to the nine federally recognized tribes regarding the rulemaking. In November 2018, the Environmental Quality Commission adopted the Cleaner Air Oregon rules, which established the new health based air toxics regulatory program in Oregon.

### **Partnering with Tribal Governments 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. 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 also worked with representatives from the Klamath Tribes to locate an air quality monitor at the tribe's administrative offices in Chiloquin. While the approval and installation has not yet occurred at the time of writing, DEQ and the tribe anticipate installation in 2019.

### **Responding to Open Burning Complaints and Asbestos Issues**

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

### **Wildfire Smoke**

During 2018, wildfire smoke response efforts included outreach to all of the tribal health or environmental contacts for state-wide smoke response coordination efforts. This is part of DEQ's standard Oregon Wildfire Severe Smoke Response Protocol process. Tribal representatives participated on regular calls with various state agencies as they saw the need at various times during the wildfire season.

The information provided focused on the concentration of particulate matter (fine PM, or PM 2.5), the associated health rating, and the expected impacts or conditions for weather and smoke in the upcoming

few days. When warranted, practices were discussed on how to avoid or best manage smoke indoors and outside, as well as which populations of people are most vulnerable.

### **Air Quality Education in Pendleton**

DEQ is part of a committee involving the City of Pendleton and the Confederated Tribes of Umatilla Indian Reservation regarding a DEQ grant that provided funding for an electronic billboard to be installed in Pendleton with the purpose of educating motorists on various air quality issues. DEQ understands the new billboard will be installed and functioning in 2019.

## **6.3. Improving Land Quality**

### **Emergency Response**

DEQ's Emergency Response Program contacts tribes regularly regarding significant incidents throughout the state. In the first 11 months of 2018, DEQ contacted tribes for at least 29 separate spills to ensure cleanup actions were undertaken in a manner to protect cultural and natural resources. Most of these incidents were regarding oil contamination to soil that resulted in ground disturbance work associated with the necessary cleanup actions. DEQ also provides contact information for each tribe to cleanup contractors to ensure contact is made with the appropriate tribes before any ground disturbance activities occur.

### **Coastal Oil Spill Response Plan Update**

In April 2018, DEQ sent emails to the tribes that have interest in the coastal zone to invite them to participate in a project to update the oil spill response plans for the coast. DEQ met with natural and cultural resource staff from the tribes that expressed interest in the project. In October 2018, DEQ followed up with draft oil spill response strategies for the Oregon Coast based on the conversations with tribal representatives earlier in the year. DEQ invited the tribal representatives to review the strategies and provide feedback, as well as scheduled follow-up meetings to discuss the updated strategies.

### **Northwest Area Committee Meeting (Regarding Emergency Response)**

In September 2018, the Northwest Area Committee meeting took place in Coos Bay, and was hosted by the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians and the Coquille Tribe. One of the key elements of the meeting was hearing from the two tribes who jointly presented to the committee on their emergency response programs, the resources that they protect, and the resources they have to respond with. The meeting may result in the two tribes becoming members of the EPA Region 10 Response Team.

### **Environmental Cleanup**

DEQ and tribal governments collaborate on a number of projects to investigate and clean up contaminated lands across the state. During 2018, the projects included:

#### **Astoria Marine Construction Company**

DEQ coordinates with representatives from the Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz Indians, the Nez Perce Tribe and Yakama Nation for their input on 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. The selected cleanup (Record of Decision) for Astoria Marine was issued in February 2017, which incorporated input by these tribes on the cleanup proposal. An agreement on restoration has been reached between federal, state and tribal trustees. An agreement in the form of a consent judgement requires Astoria Marine to implement the cleanup remedy and restoration, which is scheduled for summer 2019. DEQ will continue to communicate with tribal governments on project milestones.

### **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 this project. DEQ, tribal partners, EPA, U.S. Fish and Wildlife and National Marine Fisheries Service representatives meet regularly to discuss technical issues on this regionally important cleanup project.

The Portland Harbor Superfund Site is located in the Lower Willamette River, stretching approximately 10 miles from River Mile 2 to River Mile 12. DEQ provides technical support and works to ensure Oregon state rules are applied to the project in support of EPA, which is the lead agency working on cleaning up pollution in the river itself. DEQ leads the work controlling contaminants in “upland” areas—the contaminated lands along the river—to prevent recontamination of the river following EPA’s in-water cleanup. Prior to making decisions on controlling sources of pollution, DEQ solicits input from the tribes. EPA’s Record of Decision, issued in January 2017, relies on the upland and upriver pollution control work being conducted by DEQ as part of the overall strategy for addressing contamination at the site.

### **Northridge Estates**

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 80 1940s-era military barracks buildings. EPA is the lead agency for the project, but works closely with DEQ. EPA completed construction of the remedy in October 2018. Cultural resource monitors trained by the Klamath Tribes were present throughout the three year construction project. EPA consulted the Klamath Tribes and the State Historic Preservation Office as needed during the project.

### **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 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 October 2017, the Army Corps issued a feasibility study that evaluates options for addressing contamination in the river. DEQ, tribal representatives and other members of the Technical Advisory Group met in May 2018 to discuss the next steps for cleaning contamination on the island and in the river. Cleanup measures in the river are still being evaluated. The Technical Advisory Group has agreed to remove the landfill on the east end of the island. The Army Corps is working on contract documents so that work can be done during fiscal years 2021.

### **Coos Head Air National Guard**

DEQ coordinated 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. DEQ oversaw the work being done by the Air National Guard, and coordinated with the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians and the Bureau of Indian Affairs to complete the cleanup work.

A Record of Decision that selected the cleanup 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. An extensive groundwater sparging effort was completed at the site to remediate groundwater in 2016. The No Further Action determination letter was sent on March 8, 2017, and DEQ approved the final site closeout report on January 4, 2018. The U.S. Navy is continuing to remediate an additional source of petroleum hydrocarbons that is on land owned by the U.S. Navy.

### **Willamette Slough**

DEQ is in the initial stages of work necessary to investigate dioxins that have been found in the sediment of the Willamette Slough near Salem. 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 has negotiated a cleanup agreement with the responsible party. DEQ communicated with the Confederated Tribes of Grand Ronde and the Confederated Tribes of Siletz Indians before work began. The initial objectives of the work are to characterize the nature and extent of contamination in the shallow sediment of the Willamette Slough, and to determine if fish living in that area are safe to eat. The field work was completed in October 2017. DEQ received the Sediment Remedial Investigation and Risk Assessment reports in October 2018 and is currently reviewing the reports. DEQ will ensure the tribes have the reports as well as DEQ's determinations once work is completed.

### **Mosier Union Pacific Railroad Spill**

DEQ continues to provide oversight on cleanup and sampling work at the site of an oil spill that occurred in June 2016 in Mosier, Oregon. DEQ has been providing regular updates to tribal representatives via email.

The City of Mosier and DEQ have been working together to determine the environmental status of property that the city will receive from the responsible party as part of the Mosier Community Settlement Agreement. Once the property transfer is complete, the City of Mosier plans to maintain Totem Park as a public park and use a section of the parcel to the east of the park for a joint use facility, which will house city hall, a fire station and space for civic use of the facilities. The City of Mosier will begin design and construction of the new facility in 2019.

### **Warm Springs Mill Redevelopment**

Oregon Regional Solutions and DEQ have been coordinating on potential redevelopment opportunities for the former Warm Springs Forest Products mill. Work includes conference calls, reviewing past cleanup work, permit review, and looking at funding opportunities with state and federal grants and partners. In May 2018, state and federal agencies including DEQ and EPA began working with Warm Springs staff on a possible investigation into the Dry Creek Landfill to determine the likelihood that landfill leachate may be affecting a drinking water intake on the Deschutes River.

### **Materials Management in Oregon: 2050 Vision and Framework**

DEQ's Materials Management Program funds projects that support Oregon's 2050 Vision for sustainable materials management. Since 1991, DEQ has awarded over \$8 million in materials management grants. This year, DEQ expects to have approximately \$500,000 available for materials management project and planning grants.

Project grants are for any project that reduces waste generation, promotes reuse, or recovers solid waste through recycling, composting or anaerobic digestion. For example, changing processes or materials to

prevent waste; creating reuse infrastructure; processing and other waste prevention, recycling, composting and waste recovery initiatives. For specific examples of recently funded projects, visit the Materials Management Grants webpage at <https://www.oregon.gov/deq/mm/Pages/Grants.aspx>

Local governments, nonprofits, federally recognized tribal governments, organizations created through intergovernmental agreements, and public universities, colleges, community colleges and public schools in Oregon are eligible to apply.

The Materials Management grant program conducted outreach with each Oregon tribe by emailing and calling their offices. However, DEQ did not receive a proposal from a tribal government during the 2018 funding cycle. The program also hosted a webinar to introduce the grant program specifically for tribal governments on August 3, 2018. DEQ also collaborated with EPA Region 10 to promote this opportunity in its August and September Tribal Newsletter and during presentations at the Tribal Lands and Environment Forum in August 2018.

# Conclusion

The Oregon Department of Environmental Quality is grateful for the partnership of Oregon's nine federally recognized tribal governments. These partnerships are essential in the State of Oregon's efforts to protect and enhance the health of Oregon's people and environment. DEQ looks forward to continued collaboration with Oregon's tribal governments.