

2021 Annual Government-to-Government Report on Tribal Relations

Submitted to:
Oregon Legislative Commission on Indian
Services Oregon 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.



State of Oregon
Department of
Environmental
Quality

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Executive Summary

This Oregon Department of Environmental Quality Annual Government-to-Government Report on Tribal Relations provides an update on DEQ efforts and actions during the past year to consult, coordinate, collaborate and enhance relations with tribal nations. DEQ's work centers on protecting human health and the environment, and its partnerships with tribes are an important priority for the agency. During the past year, the agency has continued to operate primarily in a remote capacity, due to the ongoing COVID-19 pandemic. Ongoing activities include work to reduce greenhouse gas emissions, protect communities from air toxics, cleanup of contaminated lands, protection of rivers and streams, watershed restoration projects, consultation on the development of rules, policies and procedures, technical assistance and more.

DEQ has government-to-government relationships with nine federally recognized tribal governments and communicates formally through in-person meetings, correspondence via letters and emails, as well as informally through phone conversations and coordination meetings. DEQ considers tribal nations as leaders in protecting and restoring Oregon's air, land and water quality, and acknowledges the expertise and knowledge of tribes as an important complement to our shared work.

1. Agency Contacts for 2022

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2. Agency Interest Areas

As the State of Oregon's environmental protection agency, the Oregon Department of Environmental Quality partners with nine federally recognized tribal governments on issues related to air, land and water 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 often affect federally recognized tribes. In recognition of this, every year DEQ develops a comprehensive report regarding the program and policy changes (including rulemakings) that are expected to be considered by the agency's policy-making body - the Environmental Quality Commission. DEQ's tribal liaison reaches out to the key contacts from each tribal nation regarding how best to communicate relevant information, and DEQ uses this feedback to inform the agency's work. In addition, DEQ's tribal liaison regularly updates the primary contacts for each tribe on key topics including:

- 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 air, land and water monitoring plans
- presentations on monitoring results from the previous year
- emergency/spill response activities
- other relevant topics

3. Agency Statement

DEQ developed a Tribal Government-to-Government Relations Program in 1996 following the signing of Executive Order 96-30. In 2002, DEQ adopted a “Statement of Intent” to implement the order and to meet the requirements of Senate Bill 770 (ORS 182.162-168), which directs state agencies to promote government-to-government relations with the nine federally recognized tribal governments in Oregon.

In June 2010, DEQ updated its Tribal Relations Policy. The policy states that DEQ is committed to building and maintaining strong government-to-government relations with tribes. DEQ consults and coordinates with tribal nations on air, land and water quality issues that affect tribal interests, resources and 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 in DEQ actions. These partnerships increase our collective ability to protect and enhance public health and the environment.

The complete DEQ 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 2021, DEQ engaged in the following government-to-government activities:

- On Feb. 4, 2021, DEQ's Director and tribal liaison met with the Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians to discuss the water quality of Tenmile Lake and the surrounding region, with a particular focus on the nutrient levels contributing to harmful algal bloom conditions.
- On March 11, 2021, DEQ's Director sent a letter to the chairpersons of the nine federally recognized tribes in Oregon to inform them of the Water Quality Program's Triennial Review of the state's water quality standards, and to provide background materials on that process.
- On March 16, 2021, DEQ's Director met with the Tribal Chair and tribal staff of The Confederated Tribes of the Umatilla Indian Reservation to discuss implementation of Executive Order 20-04 and the development of the Climate Protection Program.
- On April 8, 2021, DEQ's Director, Deputy Water Quality Administrator, and other staff attended a meeting with the Tribal Chair and staff from the Klamath Tribes to discuss water quality in the Klamath basin.
- On May 19, 2021, DEQ's Director, tribal liaison and staff met with The Confederated Tribes of the Umatilla Indian Reservation's Board of Trustees to discuss implementation of Executive Order 20-04 and the development of the Climate Protection Program.
- On May 28, 2021, DEQ's Director met with staff of the Confederated Tribes of the Umatilla Indian Reservation to discuss climate change and alternative energy production.
- On June 24, 2021, DEQ's Director sent a letter to the chairpersons of the nine federally recognized tribes in Oregon with a summary of all of the rulemakings scheduled for the Environmental Quality Commission's consideration for the following 18 months. 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.
- On July 1, 2021, DEQ's Director and staff met with council members of the Confederated Tribes of Grand Ronde to discuss DEQ's rulemaking plan and the development of the Climate Protection Program.
- On July 29, 2021, DEQ's Director, and representatives from the Oregon Department of Agriculture, the Oregon Department of Fish and Wildlife, the Oregon Water Resources Department, the Tribal Chair and staff from the Klamath Tribes met to discuss the impacts of the drought in the Klamath River Basin.

- On Sep. 1, 2021, DEQ's Director and the Oregon Department of Forestry's Director sent a joint letter to the chairpersons of the nine federally recognized tribes to inform them of the process for updating the agencies' 1998 Memorandum of Understanding about protecting and improving water quality in the state of Oregon. The letter invited feedback or meetings between tribal staff and department staff regarding the MOU process.
- On Oct. 4, 2021, DEQ's Director and tribal liaison attended a meeting with the Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians to discuss DEQ's updated rulemaking plan and general agency work.
- On Oct. 28, 2021, DEQ and ODF's Directors received a request for consultation from the Coquille Tribe regarding Oregon's approach to protecting and improving water quality in the state. At the time of drafting this report, the agencies are in the process of scheduling the meeting.
- DEQ's tribal liaison and other technical staff attended the tribal-state natural resources cluster meetings, cultural resources cluster meetings, and economic development and community services cluster meetings held in 2021 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 calls throughout the year with tribal representatives to have open discussion with DEQ's tribal liaison and other DEQ representatives.
- DEQ's Director and water quality staff met multiple times with representatives of the Nez Perce tribe regarding water quality issues in the Snake River Basin.
- DEQ's Director continues to work with partners, including the Yurok and Karuk tribes, concerning water quality issues and dam removal in the Klamath Basin.
- In October, DEQ staff and the Director met with the new Executive Director of Oregon's Legislative Commission on Indian Services to discuss general ideas about how to foster improved government-to-government work on environmental issues.
- In November, DEQ staff, including the Director, met with the Executive Director and staff of the Columbia Intertribal Fish Commission to discuss areas of shared interest relating to management of resources in the Columbia River Basin.
- Throughout the year, DEQ connected with all of the nine federally recognized tribes on various topics and DEQ actions including draft air and water permits that were proposed or in the process of being renewed, cleanup sites, enforcement actions, DEQ programs and restoration projects.

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

DEQ'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.

- 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 webpage¹ to provide information about the government-to-government process, federally recognized tribes, and DEQ's tribal relations activities. DEQ employees use this site to learn about tribal nations and our government-to-government responsibilities.
- Until recently, DEQ offered an online training on tribal relations for DEQ staff and managers through iLearn, a state online tool for instruction. During 2021, DEQ had to switch training platforms. DEQ's tribal liaison and staff are in the process of migrating the training to Workday, the new training platform.
- In September 2021, DEQ's tribal liaison and records officer reviewed updated, suggested procedures for soliciting feedback from Oregon's nine federally recognized tribes prior to the destruction of agency records.
- In late 2019 and early 2020, DEQ staff began planning for quarterly, in-person orientation trainings for new agency employees. One of the topics addressed in these trainings is a primer on tribal relations to compliment the online resource, mentioned above. This program was put on pause, due to the COVID-19 pandemic. It will be reevaluated when normal agency gatherings resume.

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

6. Summary of Program Related Issues and Activities

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

6.1. Improving Water Quality

2022 Integrated Report Methodology

Oregon statute requires that DEQ publish the Integrated Report assessment methodology prior to the start of drafting the Integrated Report. The draft assessment methodology for Oregon's 2022 Water Quality Report and List of Water Quality Limited Waters describes how data will be evaluated at the assessment unit level and how DEQ will develop Oregon's 2022 Integrated Report for Section 305(b) and 303(d).

This process began for the 2022 Integrated Report in 2020 and continued into 2021. DEQ hosted three informational webinars and workshops for priority updates and provided opportunities for both formal and informal comments from stakeholders regarding the 2022 Integrated Report methodology update. The public comment period on the methodology closed on Monday, March 8, 2021. In total, DEQ received 91 unique comments from 17 entities on the draft Assessment Methodology update. In addition, DEQ completed its Call for Data for the 2022 Integrated Report on April 2, 2021.

Clean Water Act Section 401—EPA Rules

DEQ administers the federal Clean Water Act Section 401 water quality certification program in Oregon. Applicants for federal permits or licenses that authorize actions that may result in discharges to waterbodies are required to get a Section 401 water quality certification from the state. DEQ evaluates projects under Section 401 for both non-federal hydroelectric facilities licensed by the Federal Energy Regulatory Commission, and dredge and fill permits administered by the U.S. Army Corps of Engineers.

In 2020, the EPA published substantial revisions to the federal regulations governing both the definition of Waters of the United States (WOTUS) and states' issuance of Section 401 certifications for federally licensed or permitted projects. These changes to federal law represent a significant departure from prior policy (including a narrowing of the range of federally permitted activities that require review for compliance with state water quality standards). However, on Oct. 21, 2021, the U.S. District Court for the Northern District of California issued an order remanding and vacating EPA's 2020 Clean Water Act Section 401 Certification Rule (2020 Rule).

Outstanding Resource Waters

In response to a rulemaking petition, the EQC directed DEQ to initiate a rulemaking to designate Waldo Lake as an outstanding resource water under the state's antidegradation policy. At DEQ's recommendation, the EQC also directed DEQ to include a proposal for an outstanding resource water designation for Crater Lake in the same rulemaking. Outstanding Resource Waters are high quality waters that constitute an outstanding state resource due to their extraordinary water quality or ecological values, or where special protection is warranted to maintain existing high quality waters. Oregon's anti-degradation policy (OAR 340-041-0004) and federal regulations under the Clean Water Act both include

an outstanding resource water policy that protects high quality waters that are an outstanding state resource. The proposed rule amendments include policies to protect the current exceptional water quality and unique ecological values of these lakes. DEQ answered questions about this rulemaking and provided an update to tribal members of the natural resources cluster meeting. On Jan. 21, 2021, EQC voted to designate Crater Lake and Waldo Lake as Outstanding Resource Waters in the state of Oregon.

Cold-Water Refuge Plans

DEQ developed a cold-water refuge plan for the Lower Willamette River in response to a National Marine Fisheries Service Biological Opinion for the state's temperature standard. DEQ completed the analysis of existing cold-water refuge availability and utilization. DEQ submitted the Lower Willamette Cold Water Refuge Interpretation Study to NMFS on March 18, 2020. EPA released its final Columbia River Cold Water Refuges Plan on Jan. 7, 2021. Both refuge plans for the Lower Willamette River and the Columbia River are meet NMFS 2015 Biological Opinion requirements.

2021 Triennial Review

DEQ completed a water quality standards Triennial Review in July 2021. The federal Clean Water Act requires the Triennial Review which results in a report that summarizes the projects considered and the comments received, as well as a work plan that identifies projects DEQ plans to complete or initiate between July 2021 and June 2024. During this process, DEQ gathered input from water quality program staff, stakeholders, Tribes and the public about which Oregon water quality standards should be revised and which standards need new or improved implementation procedures. Some of the projects in the 2021–2024 workplan are rulemaking projects to revise water quality standards, such as updates to the aquatic life use designations and the aquatic life toxics criteria. Other projects will develop and document procedures for applying narrative standards for algal growth, biological criteria and sedimentation. All of these projects will include an opportunity for Tribal government-to-government communications and for public input. Additional information may be found on [DEQ's water quality standards website](#)².

Water Quality Permitting

DEQ wastewater permitting program continues to increase program efficiency and the timely issuance of quality permits. In particular, the program is addressing a significant backlog of permits, which have expired and been administratively continued. In 2021, process improvements and staffing improvements made it possible for DEQ to take action on 59 administratively extended permits (as of Sept. 30, 2021), reducing the backlog of National Pollutant Discharge Elimination System wastewater individual permits to ~65%. This is down from over 83% in 2018.

In September 2021, DEQ published a permit issuance work plan identifying the individual NPDES permits DEQ plans to issue in the coming year. DEQ identified 57 permits for development during the 2022 federal fiscal year (Oct. 1 – Sept. 30). DEQ contacted tribal representatives with information about the issuance plan for [individual permits](#)³ and provided updates to tribes.

Willamette River Toxics Reduction Partnership

The [Willamette River Toxics Reduction Partnership](#)⁴ 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 affect the success of the Portland Harbor cleanup plan. The initial effort involved a review of

² Standards available at: <https://www.oregon.gov/deq/wq/Pages/WQ-Standards.aspx>

³ Individual permits issuance plan available at: www.oregon.gov/deq/FilterDocs/NPDESPIP2021.pdf

⁴ Partnership information available at: <https://www.epa.gov/columbiariver/willamette-watershed-toxics-reduction-partnership>

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, sharing toxics monitoring and reduction efforts.

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 results to members of the Steering Committee.

EPA was successful in securing an EPA Urban Waters Program grant to fund 2019 work to connect with and engage various groups, including tribes, in toxics reduction activities in the Willamette River Basin. The focus of this grant-funded work was on the development of a new website and story map, including multiple “river stories” that help people understand the importance of the river to tribes and other populations, how toxic pollutants impact human and aquatic life and the efforts to reduce toxic pollutants in the Willamette. Two of these river stories are focused on tribal connections to the river and on the need for a clean and healthy Willamette. One was developed in coordination with the Confederated Tribes of the Grand Ronde, and the other with the Confederated Tribes and Bands of the Yakama Nation.

The partnership continued its work to understand and reduce upstream toxics in the Willamette River that could negatively influence the success of the Portland Harbor Superfund cleanup through 2020. The Confederated Tribes of Grand Ronde remains a member.

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. DEQ presented its updated [Integrated Toxics Reduction Strategy](#)⁵ to the EQC in January 2020. This update builds on some 2012 strategy actions, while outlining new actions to improve toxics assessment and reduction efforts. The purpose is to complement and support DEQ’s core air, land and water quality toxics work. DEQ is developing implementation plans for each of the proposed strategy actions, which describe how and when the work tasks will be accomplished.

The implementation of on-going 2012 strategy actions have involved tribal participation, particularly the [Pesticide Stewardship Partnership program](#)⁶, and efforts to advance safer chemistry in products. The National Tribal Toxics Council is now a member of the Interstate Chemicals Clearinghouse along with DEQ and the Oregon Health Authority. The council’s representative also works for the Columbia River

⁵ Strategy available at: <https://www.oregon.gov/deq/Hazards-and-Cleanup/ToxicReduction/Pages/Reducing-Toxics.aspx>

⁶ Program information available at: <https://www.oregon.gov/deq/wq/programs/Pages/Pesticide.aspx>

Inter-Tribal Fish Commission. As a result, tribal concerns and priorities on toxic chemicals, including those affecting Pacific Northwest tribal members, are reflected in the clearinghouse plans, tools and resources designed to advance the use and availability of safer chemicals and products.

Beginning in September 2020, additional chemical compounds of interest were being integrated into the toxics monitoring sampling efforts. These compounds are prioritized from the Toxics Reduction Strategy focus list, and include priority metals including inorganic arsenic and bioavailable aluminum, glyphosate, legacy and currently used pesticides, and industrial byproducts. Due to the COVID-19 pandemic, the need to limit travel and additional safety precautions, this year's monitoring focused on sites in the Willamette Basin in closer proximity to DEQ's laboratory.

Many of the actions require collaboration with partner agencies and organizations. DEQ will reach out to tribal government partners to solicit input on the proposed strategy actions for which they may have an interest in working with DEQ to implement. In addition, the updated strategy proposes to incorporate specific principles into all actions to the extent possible, including environmental justice.

Monitoring Toxic Pollutants

In 2019, DEQ's statewide toxics monitoring program established a trend network of approximately 60 locations based on a risk assessment using previously collected data through the toxics monitoring program. The goal is to sample sites three times annually to establish a trending network for toxics. The first sampling event was completed in fall of 2019 and the second is scheduled in winter 2021. Initial analysis includes priority metals and will expand to organics in the near future. Toxics monitoring supports the evaluation of toxics impacts on tribal First Foods and ecological integrity.

Over the past year, DEQ produced basin-specific toxic assessment summary reports for water quality in the Rogue (December 2020) and Umpqua (March 2021) Basins and communicated results to tribes with interest in those geographic areas.

Groundwater

Groundwater Management Areas

DEQ has been participating in Lower Umatilla Basin Groundwater Management Area Advisory Committee meetings and working with Confederated Tribes of the Umatilla Indian Reservation representatives toward efforts to revise and update the Lower Umatilla Groundwater Management Area Action Plan.

Statewide Groundwater Monitoring

DEQ's Statewide Groundwater Monitoring program sampled groundwater in Klamath County in 2020. Representatives from DEQ presented information on the project objectives and draft-sampling plan to the Klamath Tribes Tribal Council in October 2019. As this effort moves into new areas, DEQ will continue to engage with tribal representatives in the sampling areas and provide the monitoring results to all interested parties.

DEQ recently published groundwater monitoring result reports for the Walla Walla Basin (December 2020) and Harney County (May 2021) and communicated results to Confederated Tribes of the Umatilla Indian Reservation and Burns-Paiute, respectively.

Clean Water State Revolving Loan Fund

DEQ's Clean Water State Revolving Fund loan program continues to provide below-market rate 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 and energy efficiency, incorporating green infrastructure or that qualify as environmentally innovative.

Developing and Implementing Water Quality Improvement Plans (TMDLs)

When rivers and streams exceed water quality standards set to protect people and aquatic life, DEQ develops a pollution reduction plan called a Total Maximum Daily Load, or TMDL. 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 TMDLs is summarized below.

Temperature TMDL's

In October 2019, the U.S. District of Oregon, Portland Division, issued its final order and judgment for *NWEA v. USEPA*, commonly referred to as the Temperature TMDL litigation. This case was originally filed in 2012 by Northwest Environmental Advocates to challenge EPA's action on numerous temperature TMDLs. This final order requires DEQ and EPA to develop replacement TMDLs by the end of 2027 for 14 areas, including most of the following basins:

- Willamette
- Rogue
- Umpqua
- John Day
- Northeast Oregon
- Umatilla
- Willow Creek
- Snake River Hells Canyon
- Miles Creek and Malheur

DEQ has begun the project to revise these temperature TMDLs and is working with EPA, various agencies and stakeholders and tribes as we work towards reissuance of these TMDLs. The existing TMDLs in these areas continue to stay in effect until the revised TMDLs are reissued and approved by EPA.

Mid-Coast Basin TMDLs

The Confederated Tribes of Siletz Indians participate with DEQ and other stakeholders in development of temperature and dissolved oxygen TMDLs for the Mid-Coast Basin. Representatives from the Tribes 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. Cooperative projects in 2018-2020 include monitoring hydrology, ground water characteristics and nutrient processes and data sharing. The Confederated Tribes are also 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 to characterize estuarine conditions, assist in protection of beneficial uses like recreational shellfish collection, and provide data that can be used in TMDL development. These tribal governments periodically provide water quality and other technical assistance to local organizations, including watershed councils, soil and water conservation districts and municipalities, all of which are DEQ partners.

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 a and pH. The tribe has provided valuable technical data and mapping support in the development of the TMDLs and continues to remain interested in the results and outcomes of the TMDL process. In 2021, DEQ expanded their Coquille Local Advisory Group tribal representative list to include outreach to the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians and Confederated Tribes of Grand Ronde. Past Coquille Indian Tribe water quality staff have served on the local advisory group for the Coquille River TMDLs, and are expected to participate again in 2022 when DEQ reinitiates the Coquille TMDL Local Advisory Group. DEQ has also communicated with representatives from the Cow Creek Band of Umpqua Tribe of Indians staff for their input on the South Fork Coquille River TMDL for Camas Valley. 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 in the Upper Deschutes basin. Data collection is ongoing and DEQ will continue to connect with tribal representatives as part of this effort.

Temperature TMDL for Columbia and Lower Snake Rivers

On Aug. 20, 2020, DEQ provided comments on the Total Maximum Daily Load for temperature in the Columbia and Lower Snake Rivers. Established by EPA on May 18, 2020, the TMDL assesses heat sources and broadly assigns reduction targets to sources of heat pollution in the mainstem Columbia and Lower Snake Rivers. EPA evaluated effects of dams, point sources, tributaries and climate change on temperature impairments of the two streams, which are important migration corridors for threatened and endangered salmon and steelhead. To reduce stream temperatures, EPA assigned heat reduction targets to dams, point sources and tributaries. DEQ did comment that EPA must revise the TMDL to assign allocations that meet the Oregon temperature water quality standard which the TMDL fails to do. Because it is important to reduce temperatures in the Columbia and Snake Rivers for the sake of the fish, the states of Oregon and Washington will develop plans to implement the TMDL to work toward achieving temperature water quality standards necessary to safeguard the aquatic life in the Columbia and Lower Snake Rivers.

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.

Nonpoint Source Management Program Plan

DEQ started work in 2021 to update Oregon's Nonpoint Source Water Quality Management Program Plan and reached out to tribal governments in October to solicit input on the draft plan. The plan describes Oregon's programs and process for preventing and controlling nonpoint source water pollution. DEQ is the lead agency for developing the plan but it is a State Plan. This plan is a requirement under the Clean Water Act and must be updated every five years. This plan will replace the current 2014/2015 plan. EPA uses the plan and annual reporting on its implementation to determine if Oregon is making satisfactory progress with its nonpoint source program. There are a number of components that must be included in the plan including identifying priorities and various actions and milestones that will occur over the five-year period.

Relicensing Hydroelectric Projects

Tribal governments and DEQ have worked together on the following hydroelectric relicensing projects over the past year.

Hells Canyon Hydroelectric Project

In May 2019, DEQ issued a Clean Water Act Section 401 Certification to Idaho Power Company as part of the 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 provided comments on the draft water quality certification.

In late 2019, the Burns Paiute Tribe and Nez Perce Tribe filed separate actions challenging the Certification. The Burns-Paiute Tribe voluntarily dismissed their suit in April 2021 following DEQ's submittal of declarations describing our process and facts of the case. DEQ reached a settlement of the suit filed by the Nez Perce Tribe and two conservation petitioners and the suit was withdrawn in September 2021. This settlement agreement committed DEQ and the Oregon Department of Fish and Wildlife to pursue certain objectives. DEQ will work toward development of a TMDL for methylmercury in reaches of the Snake River that include the Hells Canyon Complex of hydropower dams. DEQ reached a separate agreement with Idaho Power Company which will provide \$750,000 for TMDL development. Governor Kate Brown also committed to use another \$750,000 from DEQ's budget to complete this work. DEQ will also ensure that the Nez Perce Tribe and the conservation petitioners are aware of developments in implementation of the 401 certification conditions and include the petitioners on advisory groups for TMDL development. ODFW has committed to investigate reintroduction of Sockeye Salmon to Wallowa Lake and passage of captured fish from Pine Creek in Oregon to the Snake River downstream of Hells Canyon Dam.

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.

In 2018, DEQ and representatives from the Confederated Tribes of Warm Springs were both amici in a lawsuit filed by the Deschutes River Alliance against Portland General Electric, arguing against some of the allegations. PGE was granted summary judgment in that case by a district court. On appeal to the 9th Circuit Court of Appeals, the court found the case could not go forward without the CTWS as a defendant, but that the tribe had sovereign immunity and was barred from suit. To date, this suit has not been appealed to the U.S. Supreme Court. The tribe later became a party to the suit as a co-operator of the facility. DEQ provided review of the tribe's proposed water quality standards. DEQ began modification of the Pelton Round Butte 401 Certification in 2021, which is a coordinated process between DEQ, Portland General Electric, and the Confederated Tribes of Warm Springs.

Lower Klamath Hydroelectric Project

DEQ has collaborated with more than 40 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 for purposes of removal. KRRC is seeking a license surrender from the Federal Energy Regulatory Commission, and KRRC and the States of Oregon and California will apply (along with PacifiCorp) to transfer the FERC license for the purposes of surrender. KRRC will continue to oversee the decommissioning of the dams. Dam removal is scheduled to begin in January 2023. 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 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 2020 Legislatures allocated over \$1.9 million to the Oregon Department of Agriculture and DEQ to implement the program through June 30, 2021.

The Cow Creek Band of the Umpqua Tribe has been involved in a pilot pesticide monitoring activity in the South Umpqua since 2014, offering insights and assistance to inform monitoring plans. This PSP project was completed in 2020. Although there may be some future testing to verify results, that work has not been scheduled.

The Confederated Tribes of Warm Springs has contributed time and financial resources to the Hood River project since the early 2000s. The Warm Springs Tribe is now involved in the Middle Deschutes PSP project, through their participation on the board of the Jefferson Soil and Water Conservation District. This project is a long-term partnership with the conservation district as the primary local partner organization.

In 2018 and 2019, the inter-agency team overseeing the project initiated 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.

Beginning in late 2019, proposed stakeholder advisory groups provided input on all elements of the PSP program. A representative of the Confederated Tribes of the Umatilla Indian Reservation served on the group. The group met multiple times through June 2021 and gave feedback on a number of issues, including feedback on an evaluation of how the PSP program and individual watershed projects will most effectively incorporate environmental justice principles into on-going and future activities.

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 in the future. DEQ participates in the development of four collaborative water plans throughout Oregon and provides technical assistance as needed. The current plans under development are in the Mid-Coast Region, Lower

John Day Subbasin, Upper Grande Ronde Subbasin, and the Malheur Lake Basin. Tribal representatives participate the planning efforts.

Another 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 works with the technical review team to review the economic, environmental, social and cultural benefits of each grant application. As part of that team, DEQ considers comments from tribes and the public when making funding recommendations to the Oregon Water Resources Commission.

Application to be Treated As a State

EPA is authorized to treat eligible federally recognized tribes as a state for the purpose of grant funding and implementing certain environmental programs and functions. In June 2020, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians submitted to EPA Region 10 a TAS application for the purpose of developing and administering water quality standards under Section 518 of the Clean Water Act. Approval of the application would allow the tribe to adopt, review, and revise water quality standards pursuant to Section 303(c) of the Clean Water Act, and to certify that discharges comply with those water quality standards pursuant to Section 401 for all surface waters within the boundaries of the reservation and trust lands.

Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians and DEQ water quality and Western Region staff have discussed the application and what collaboration would be needed between the two governments if the application is approved. DEQ submitted comments during the public comment period which closed on Dec. 11, 2020 and received responses in January 2021.

6.2. Improving Air Quality

Oregon Climate Protection Program

In March 2020, Governor Brown signed Executive Order 20-04 outlining a comprehensive approach to reducing greenhouse gas emissions in Oregon by 80 percent by 2050. This level of emissions reduction is what is necessary for Oregon to do its part in the global effort to avoid the worst effects of climate change. DEQ, working with its policy-making commission – the Environmental Quality Commission – has a major role to play in this important work. DEQ has outlined the steps it intends to take in the next several years under the [Oregon Climate Protection Program](#),⁷ including multiple rulemaking and programmatic efforts. In May 2020, DEQ's Director sent a letter to the tribal chairs of all of the federally recognized tribes in Oregon detailing this work and inviting consultation on any of the programs or issues involved. This letter was followed with individual requests in 2021, and a series of meetings with tribal councils over the course of the year. Additionally, DEQ staff presented to the Economic Development and Community Services Tribal Cluster and the Natural Resources Tribal Cluster regarding the requirements to the agency and DEQ's workplans for the required program development.

On Thursday, Dec. 16, 2021, DEQ will present proposed rules to the EQC to establish the program beginning 2022. If approved, the program will cap emissions in most of the main sectors of Oregon's economy, including large stationary sources, transportation fuels, and other liquid and gaseous fuels, such as natural gas, and assure that these emissions are reduced over time.

In 2021, DEQ's Director and staff met with the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians' Council, Umatilla & Grand Ronde about this work. Additional meetings were held with the Confederated Tribes of the Umatilla Indian Reservation, and the Confederated Tribes of the Grande

⁷ Program information available at: <https://www.oregon.gov/deq/ghgp/Pages/capandreduce.aspx>

Ronde. Staff from the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians' Council, as well as from the Affiliated Tribes of Northwest Indians, participated on DEQ's Rules Advisory Committee that met throughout the first half of 2021 to advise on the development of the rules that DEQ has now proposed to the EQC. Input from tribes throughout this extensive process has informed how the agency developed these proposed rules, including how the program includes specific provisions to produce a more equitable transition off of fossil fuels in Oregon's Black, Indigenous and People of Color communities, and low-income communities, including tribal communities.

Cleaner Air Oregon

In December 2018, the EQC adopted rules for [Cleaner Air Oregon](#)⁸ – air toxics regulations for stationary sources. Throughout the process, DEQ and OHA provided regular outreach to the nine federally recognized tribes regarding the rulemaking. The agency will continue to consult the tribes if impacts from specific facilities are expected on tribal lands and when initiating follow-up rulemakings to refine the rules. In November 2020, DEQ began a rulemaking to integrate the program with the original Oregon Air Toxics Program, adopted in 2003. This work continued into 2021 and DEQ will present rule updates to the EQC in November 2021.

DEQ staff continue to provide interested tribal staff with updates on program implementation through reports to cluster meetings and DEQ's regular, standing calls.

Partnering with Tribal Governments on Air Quality 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 continues to collaborate with tribes to deploy air quality sensors. Key highlights include:

- Supporting the Klamath Tribes in seeking Bureau of Indian Affairs approval to site a monitor.
- Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians is in the process of seeking EPA funding to expand its air quality monitoring. It is possible that more tribes seek EPA American Rescue Plan grant funding in the future to update and install PM 2.5, or fine particulate matter, monitors and community funding projects. DEQ would continue to offer support of such applications, if desired.
- Confederated Tribes of Warm Springs obtained PurpleAir monitors from EPA to deploy during wildfire events.

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

The declaration of the start of wildfire season in mid-May 2021 marked the earliest start to a fire season in over 40 years; and the above normal temperatures and record-breaking drought made for difficult 2021 fire season. Smoke from both Oregon and California wildfires inundated many of Oregon's smoke sensitive receptor areas. Tribes in Southern Oregon, Central Oregon, and mid-Willamette Valley (Oakridge) were particularly impacted.

⁸ Program information available at: <https://www.oregon.gov/deq/air/cao/Pages/default.aspx>

During 2021, Oregon's wildfire smoke response efforts included outreach to all tribal health or environmental contacts for statewide smoke response coordination efforts and various Incident Management structures established in response to the fires. These are part of DEQ's standard Oregon Wildfire Severe Smoke Response Protocol. Tribal representatives were invited to approximately 26 smoke coordination calls and participated in development of air quality advisories as needed. During these meetings, state agencies provided information that focused on the concentration of fine 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 days. When warranted, the team would discuss indoor clean air spaces and how to avoid or best manage smoke indoors.

Oregon Legislature passed Senate Bill 762 (2021) to help Oregon modernize and improve wildfire preparedness through three key strategies: creating fire-adapted communities, developing safe and effective response and increasing the resiliency of Oregon's landscapes. DEQ has set aside \$360,000 (\$40,000 per tribe) to help enhance smoke readiness and mitigation capacities in tribal communities. At the time this report was drafted, DEQ staff are working with representatives from four tribes to establish intragovernmental agreements.

Regional Haze Plan

The Clean Air Act and the federal Regional Haze Rule require states to protect visibility in certain wilderness areas and national parks. The goal of the rule is to return visibility in protected areas to natural background levels by 2064. Regional haze comes from natural and human-caused emissions of pollutants such as volatile organic compounds, ammonia, nitrogen oxides, sulfur dioxides and particulate matter. Oregon contains 12 protected areas – called Class 1 Areas – including Crater Lake National Park and 11 wilderness areas. By agreement with the Columbia River Gorge Commission, Oregon DEQ also includes the Columbia River Gorge National Scenic Area in regional haze planning and analyses.

EPA requires states to adopt and periodically update regional haze plans to improve Class 1 area visibility on the haziest days and ensure no degradation on the clearest days. Initial and updated plans must show how the state will meet short-term and long-term progress goals to achieve natural visibility conditions by 2064. DEQ submitted its first Regional Haze Plan in 2010 and began its second round of regional haze planning in 2019.

DEQ's membership in the Western States Air Resources Council and the Western Regional Air Partnership was vital to accessing analytical resources and regional visibility modeling results during this second round of regional haze planning. WRAP is a voluntary partnership of states, tribes, local air agencies, federal land managers and EPA. The Confederated Tribes of the Umatilla Indian Reservation is a member of WRAP and also served on the Regional Haze Tribal Data Workgroup. The WRAP Tribal Data Work Group met monthly from September 2018 to January 2020 to develop and review multiple communication, analytical and technical work products and reports.

The Regional Haze Rule requires states to consult with neighbor states and federal land managers during plan development; for DEQ, federal land managers included the U.S. Forest Service and the National Park Service. DEQ also initiated government-to-government consultations with Oregon's nine federally recognized tribes by letter in December 2019. DEQ's Director followed these initial letters with additional consultation invitations. DEQ staff continued to update tribal staff in 2021, at forums such as the DEQ-Tribal roundtable meetings and the Natural Resource Cluster meetings.

Concurrently with the Regional Haze Plan development, DEQ conducted a rulemaking that revised state Regional Haze rules in Chapter 340 Division 223. The Division 223 rulemaking codified the screening procedure and information collection that DEQ undertook, using existing authority, and established compliance options for regulated sources. The Confederated Tribes of the Umatilla Indian reservation had

representatives on the advisory committee for this rulemaking. The EQC adopted the Division 223 revisions in July 2021.

DEQ held a public comment period for the 2018 - 2028 Regional Haze State Implementation Plan between Aug. 27 and Nov. 1, 2021, and a public hearing on Oct. 27, 2021. DEQ is currently responding to public comment and revising the Regional Haze Plan. DEQ intends to present the 2018 –2028 plan to EQC in early 2022.

6.3. Improving Land Quality and Sustainable Management of Materials

Emergency Response

DEQ’s Emergency Response Program contacts tribes regularly regarding significant incidents throughout the state. Between Nov. 30, 2020 and Nov 1, 2021, DEQ contacted tribes 101 times, representing 39 unique incidents, to ensure cleanup actions were undertaken in a manner to protect cultural and natural resources. Most of these incidents were regarding oil spills to soil that required 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.

Major incidents in 2021 included:

- Christmas Valley Tanker Rollover—Aug. 12, 2021: A tanker truck overturned, discharging approximately 3573 gallons of Jet A to the soil. Approximately 3,486 gallons were recovered by stinging the tanks. The Klamath Tribes, the Burns Paiute, and the Confederated Tribes of the Warm Springs Reservation of Oregon were notified.

DEQ invites tribal governments to engage in training opportunities and drills in their region as those are scheduled.

In addition to Oregon’s Emergency Response Program’s work, DEQ staff participates on the Tribal Engagement subcommittee of the EPA’s Region 10 Regional Response Team of the Northwest Area Committee. As part of this work, DEQ staff collaborate with federal, other state, tribal and private partners to maintain and update the Northwest Area Contingency Plan. The subcommittees main purpose is to ensure outreach and tribal inclusion in maintaining the plan, and to be sure that tribes are involved in the planning, preparedness and response for oil and hazmat response. Specifically, establishing a relationship with tribes in the area so that they can inform us about their priorities in a response, barriers to engagement, data or other information needs and engagement preferences. The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians has also participated with this subcommittee in the past.

Environmental Cleanup

DEQ and tribal governments collaborate on a number of projects to investigate and clean up contaminated lands across the state. During 2021, major projects included the following:

Scappoose Bay/Multnomah Channel, St. Helens

Scappoose Bay enters the Multnomah Channel by the town of St. Helens in Columbia County. Industrial use of this area primarily consisted of the manufacturing of wood products including paper, plywood, fiberboard and treated lumber. Significant levels of hazardous substances have been identified at three former industrial sites: the Armstrong World Industries fiberboard plant, Pope & Talbot creosote treating facility, and Boise Cascade paper mill.

DEQ initiated feasibility studies in 2020 for the contaminated sediments at all three sites, stemming from more than 15 years of investigations into the nature and extent of contamination and assessment of risks to human health and ecological receptors. Based on review of the feasibility study for the former Boise mill site, DEQ selected a preferred remedy for sediments in Multnomah Channel and is currently preparing a draft Record of Decision for public comment. DEQ will use the results of these feasibility studies along with public and tribal input to select cleanup remedies for the Armstrong and Pope & Talbot sites.

A cultural resource assessment was also completed at the Armstrong site in August 2021. An onsite archaeologist has been retained to monitor all ground-disturbing activities at that site and DEQ has been updating Oregon and Washington tribes interested in that work.

DEQ is working closely with the City of St. Helens, Port of Columbia County and Oregon Department of State Lands to ensure that the remedies will be compatible with current and future land and marine use. DEQ has also engaged interested tribes at the Armstrong World Industries site to support an ongoing cultural resources assessment and data gaps investigation.

Astoria Marine Construction Company, Astoria

The Astoria Marine Construction Company manufactured and repaired wooden-hulled fishing and ferryboats, tugboats and yachts beginning in 1924. During World War II, the shipyard expanded operations for construction of military vessels which continued through the Korean War. During the peak production period from 1940 to 1960, the facility employed more than 400 full-time workers. In the 1960s, work for the U.S. Navy decreased and operations transitioned to fishing and tugboat repair. After 1985, business primarily involved repairs of fishing boats.

EPA conducted environmental investigations in the early 2000s on and around the AMCCO site. Investigations found contamination in soil and nearby riverbed sediment in the Lewis and Clark River near the mouth of the Columbia River. Based on those findings, EPA initiated efforts to place the facility on the National Priorities List to guide cleanup under EPA's Superfund program. In 2012, an agreement deferred the site listing and EPA transferred site management to DEQ.

In coordination with AMCCO, tribal governments, and a community advisory group, DEQ selected the cleanup remedy in 2017. A natural resource restoration plan was also agreed upon to satisfy conditions of EPA's deferral agreement. AMCCO completed all major remedy construction activities during the spring and summer of 2020. These included preparation activities such as demolition of onsite buildings and structures followed by excavation of contaminated sediments in marine ways and upland soil hot spot removal for offsite landfill disposal. The property was winterized and work resumed in the summer of 2021, including restoration of the levee, construction of a stormwater system and capping of the upland area. Construction completion is anticipated in 2022 after which DEQ will review and issue a certification of completion documenting that terms of the 2018 settlement agreement between AMCCO and DEQ have been met.

Portland Harbor

DEQ has both lead- and support-agency responsibilities at the Portland Harbor Superfund site. DEQ works closely with six tribal governments on the 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 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. 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 Confederated Tribes of the Grand Ronde Community of Oregon, Confederated Tribes of Siletz Indians, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon, and the Nez Perce Tribe. EPA’s Record of Decision, issued in January 2017, relies on the upland and upriver pollution control work DEQ is conducting as part of the overall strategy for addressing contamination at the site.

Blue Heron Mill site

In August 2019, the Confederated Tribes of the Grand Ronde and DEQ signed a Prospective Purchaser Agreement for the former Blue Heron Mill in Oregon City. The 23-acre now-closed paper mill is located at the base of the Willamette Falls, an area of immense cultural significance. Until the closure of Blue Heron in 2011, site operations included flour, saw, and woolen mills, tannery operations, foundries, city waterworks, and an electrical generation plant. Numerous environmental investigations performed on the property raised concerns about asbestos, lead-based paint, electrical and hydraulic fluids, mercury and petroleum.

The PPA identifies environmental cleanup tasks to be completed, and, in turn, limits the purchaser’s future liability upon completion of the work. It is an agreement between the two parties that says they will work together to develop a scope of work for cleanup, followed by specific work plans to complete the scope of work, and a schedule for the work to be completed with DEQ oversight.

Throughout the year, DEQ and tribal staff have continued to communicate about the progress of this project, with the tribe providing periodic updates on the progress of required cleanup.

Bradford Island

DEQ continues to work with the Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Yakama Nation, Nez Perce Tribe, the Washington Department of Ecology, EPA and the U.S. Army Corps of Engineers to evaluate contamination levels at Bradford Island in the Columbia River.

The primary concern is PCBs from electrical components that were dumped into the river decades ago. Cleanup efforts in 2000 and 2002 to remove electrical components from the river and dredging of contaminated sediment in 2007 failed to reduce contamination levels in local populations of resident fish and fish tissue. Sampling indicates that further remediation is needed. In October 2017, the USACE issued a draft feasibility study that evaluates options for addressing contamination in the river. DEQ and Yakama Nation, along with other members of a technical advisory group, determined in 2019 that additional passive sampling should be done in the river to better assess the locations of contamination before selecting a remedy.

DEQ, Yakama Nation, and Washington Department of Ecology issued two joint letters to EPA, first in October 2019 and again in February 2021 requesting that the site be listed on the National

Priorities List for ‘superfund’ cleanup sites. EPA took no action on the request in 2020, but in 2021 proposed the site for listing. Public comment on the proposed listing closed in November 2021.

Site investigation activities in 2021 included additional soil characterization of the sandblast area, and additional PCB congener analysis of passive samples and fish, clam and crayfish samples.

Willamette Slough

Contamination from former pulp mill operations in the area resulted in elevated levels of dioxins in sediment in the Willamette Slough. DEQ is working with Boise Cascade to complete further sediment, fish tissue studies, and determine the level of risk to public health and the environment from elevated dioxin levels in Willamette Slough. An Inadvertent Discovery Plan for Cultural Resources was developed and implemented for this project.

DEQ met with representatives of the Confederated Tribes of Grand Ronde and Confederated Tribes of Siletz Indians in February 2021 about the findings of the sediment and fish tissue studies completed Boise Cascade. DEQ concurred with the findings that eating fish from the slough does not pose a statistically different risk to people than eating fish from other areas in the Willamette River. DEQ is currently working with Boise Cascade to complete the remedial investigation and risk assessment report. Once the report is finalized, DEQ will begin work on the feasibility study that will determine the remedial action necessary.

High Hazard Rail Contingency Planning Rulemaking

In 2019, the Oregon legislature adopted House Bill 2209. The bill concerns contingency planning for railroad transportation of oil. Railroads are required to conduct emergency contingency planning and submit emergency plans to DEQ. DEQ is also required to adopt rules about this type of planning.

The rulemaking to adopt these contingency planning rules began in the summer of 2020. A representative from the Confederated Tribes of Umatilla participated in the rulemaking advisory committee. The public comment period closed on Dec. 29, 2020 and the final version went to the Environmental Quality Commission for approval in May 2021. Since that time, two operators have submitted plans to DEQ for review. As required by the rules, DEQ shared the plans with those tribes interested in the covered high hazard rail corridors for their review and comment.

Drug Take Back Program Rulemaking

The Oregon legislature adopted House Bill 3273 (2019), establishing a drug take-back program in the state and requiring DEQ and the Oregon Board of Pharmacy to ensure compliance with the program. In 2021, DEQ reviewed and approved program plans by two program operators to operate the first statewide drug take-back programs in Oregon. Both programs launched July 1, 2021 and offer safe and secure options for Oregon residents, including members of Oregon tribes, to dispose of their unwanted medicines. Residents can drop off unwanted medicines at participating pharmacies and other drop-off sites. Residents can also order prepaid, preaddressed envelopes to mail in medicines for safe destruction.

In accordance with their DEQ-approved plans, both program operators will solicit feedback from, and seek engagement with, tribal and historically underserved communities to raise awareness about the program and ensure that these communities have convenient and equitable access to take-back services. Tribal pharmacies serving the Klamath Tribes, the Confederated Tribes of Siletz Indians and Confederated Tribes of the Umatilla Indian Reservation are currently participating as active drop-off sites.

6.4. 2020 Wildfire Response

Debris Management Task Force

Following the Labor Day Fires of 2020, DEQ coordinated with EPA, other state agencies, and local governments on the cleanup and removal of Household Hazardous Waste from properties damaged or destroyed by wildfires. Prior to HHW removal effort, DEQ provided notice to the State Historic Preservation Office and to tribes about the locations where we anticipated the work would take place. DEQ staff created a geographic information system layer showing these sites and shared a protected version with tribal cultural resource staff.

DEQ staff also developed a 2020 Wildfire Inadvertent Discovery plan for Cultural Resources and shared it with staff from the nine federally recognized tribes in Oregon. This plan was created prior to DEQ contractors beginning HHW removal and was prepared in the event a contractor noticed an archaeological resource in the field.

As task force and state contractors continued debris and hazard tree removal into 2021, DEQ assisted and provided technical support regarding the proper handling, transport, and disposal of ash and debris, when likely to contain toxic chemicals.

Natural and Cultural Resources Wildfire Recovery Task Force

Following the 2020 Labor Day fires, the state established the Natural and Cultural Resources Recovery Task Force to provide coordination and implementation for the state recovery and response to catastrophic wildfires and was cocovered by the Oregon Department of Forestry, the Oregon Watershed Enhancement Board and DEQ. The task force also served as the coordination and implementation mechanism for State Recovery Function 7 from the March 2018 Oregon Disaster Recovery Plan.

Because of the broad scope of the task force, representation includes state and federal natural resources agencies, along with cultural resources expertise. The task force had participation from the State Historic Preservation Office, the Bureau of Indian Affairs, and the Legislative Commission on Indian Services, and in November 2020, a formal workgroup known as the Tribal Work Group of the task force was also established. This group include tribes, state and federal agencies. The initial role of the group was to:

- Review assessments to determine if tribal cultural and natural resources are adequately reflected in the information provided.
- Identify best ways for tribes to participate in community-level conversations about fire recovery prioritization and investment.
- Identify best ways to communicate with tribes about upcoming work on federal and state lands so tribes have the opportunity to contribute meaningfully to decision-making on public lands.

An initial invitation to participate was sent from the Department of Forestry to all tribal chairs of Oregon's nine federally recognized tribes, as well as staff from the natural and cultural resources work groups of LCIS. The first meeting of this group took place in early December 2020 and the recovery effort continued into 2021. During this work, DEQ staff met as requested with participating tribal staff. This taskforce concluded in spring 2021.

7. Conclusion

The Oregon Department of Environmental Quality is grateful for the partnership with federally recognized tribal governments. These partnerships are essential in our shared efforts to protect and enhance the health of Oregon's people and environment, and the agency remains committed to improving, building and maintaining strong government-to-government relations with tribes in the future.