

# 2020 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  
Environmental  
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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, we have worked to respond to the emergencies associated with the COVID pandemic and the response to and recovery from the Labor Day wildfires. 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 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 is always looking for additional opportunities to work together with tribes, and continues to learn from tribal representatives as we work together to protect and enhance Oregon's air, water and land.

# 1. Agency Contacts for 2021

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## 2. Agency Interest Areas

As the State of Oregon's environmental protection agency, the Oregon Department of Environmental Quality coordinates with federally recognized tribal governments 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 often affect federally-recognized tribes. In recognition of this, every year DEQ's director sends a letter to tribal chairpersons summarizing the policies (including rulemakings) that are expected be considered by the agency's policy-making body - the Environmental Quality Commission. DEQ's tribal liaison asks the key contacts from each tribe how best to communicate relevant information and uses this information to help inform agency staff during project planning. In addition, DEQ's tribal liaison updates the key contacts for each tribe on a variety of 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
- 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, water and land 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 as much as possible 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 2020, DEQ engaged in the following government-to-government activities:

- On Jan. 10, 2020, 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 May 5, 2020, DEQ's Director, tribal liaison, and staff met with Confederated Tribes of the Warm Springs Reservation staff and council members to discuss a number of issues related to water quality in the Deschutes basin.
- On June 22, 2020, DEQ's Director, tribal liaison, water quality and Western Region staff attended a meeting of the Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Tribal Council to discuss the water quality of Tenmile Lake and the surrounding region, with particular focus on the nutrient levels contributing to harmful algae bloom conditions.
- On July 20, 2020, DEQ's Director, tribal liaison, and staff attended a meeting with the Tribal Chair of the Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw and legislative officials.
- On Sept. 28, 2020, DEQ's Deputy Water Quality Administrator, tribal liaison, and other staff attended a meeting with staff from the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians' Department of Natural Resources and Culture to discuss that tribe's Application to be Treated As a State for Clean Water Act Eligibility To Administer A Water Quality Standards Program And A Water Quality Certification Program.
- On Oct. 6, 2020, DEQ's Director, tribal liaison, and other staff attended a meeting with the Tribal Council of the Coquille Indian Tribe in order for DEQ to update council members on the City of Powers's wastewater treatment plant and discuss the water quality in Tenmile Lake and the Coquille River.
- On Nov. 10, 2020, DEQ's Director, tribal liaison, and other staff attended a meeting of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Tribal Council to provide a briefing on the Greenhouse Gas (GHG) reduction program being developed by the Office of Greenhouse Gas Programs. The briefing included information about the rulemaking process for the program. Tribal Council ultimately decided to include a representative on the Rules Advisory Committee for that work.



- On Nov. 12, 2020, DEQ's Deputy Water Quality Administrator, tribal liaison, and other staff attended a meeting with staff from the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians' Department of Natural Resources and Culture to discuss changes made to Clean Water Act rules at the federal level and to answer questions about how those changes would impact DEQ programs.
- 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 2020 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 periodically throughout the year as an opportunity for tribal representatives to have open discussion with the 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 addition, DEQ provided the following government-to-government communications:

- On April 3, 2020, DEQ's Director sent a letter to the chairpersons of Oregon's nine federally recognized tribes regarding a rulemaking associated with the creation of DEQ's High Hazard Rail Program, which was created by the passage of House Bill 2209. DEQ's letter summarized the rulemaking, invited participation on the Rules Advisory Committee and requested consultation on the rulemaking.
- On May 28, 2020, DEQ's Director sent a letter to the chairpersons of Oregon's nine federally recognized tribes regarding Executive Order 20-04, which directed DEQ and other state agencies to take actions to reduce and regulate greenhouse gas emissions in Oregon. As required by that order, DEQ created a number of work plans and reports detailing how the agency would be approaching the required policymaking. DEQ's letter shared those plans and invited participation of the tribes.

On Sept. 21, 2020, DEQ's Regional Solutions staff shared an invitation with the natural resource and economic development staff contacts for all of Oregon's nine federally recognized tribes to "Tribal Land Restoration and Reuse Conversation," an accompanying event to the Northwest Environmental Business Council's (NEBC) annual conference. The event was sponsored by DEQ, U.S. Environmental Protection Agency (EPA), U.S. Department of Agriculture (USDA), and NEBC and was designed to provide information to tribes about tribally owned contaminated land reuse projects, their funding, and common recurring issues or questions from past projects.

- On Sept. 30, 2020, DEQ's Director followed up on the May 28 communication with a letter to the chairpersons of Oregon's nine federally recognized tribes that requested consultation on the Office of Greenhouse Gas Programs's new programs to reduce GHG emissions in Oregon.

- On Oct. 16, 2020, DEQ's Director shared a letter with the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians that the agency sent to EPA during its public comment period on the tribe's application for Treatment in a Similar Manner as a State.
- 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, 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.

- A DEQ staff member completed the Portland State University Professional Certificate in Tribal Relations. The program strives to foster understanding of tribal perspectives, increase staff effectiveness and accountability and improve working relationships between participants and the tribal communities with whom they work.
- 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 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.
- 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 paused before the first such training, due to the COVID-19 pandemic, but will be reevaluated when normal agency gatherings can resume.
- DEQ's Cleanup Program updated its internal guidance on managing cultural resources at DEQ managed cleanup sites. Although not substantive in nature, the changes made were aimed at giving more explicit instruction to responsible parties about working with the State Historical Preservation Office and DEQ's liaison to ensure that proper notification is given of these projects. This update was issued as an Internal Management Directive.

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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

DEQ 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 and discussion between tribal nations and DEQ staff over the past year are summarized below.

### 6.1. Improving Water Quality

#### **2018/20 Integrated Report and 2022 Integrated Report Methodology**

Beginning in 2018 and continuing through 2020, DEQ conducted the first in-depth statewide water quality assessment report since 2012. A representative from the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians served as a member of the Integrated Report work group, which provided a great deal of support in recent efforts to revise and modernize DEQ's Integrated Report methodology and user-interface. DEQ conducted a data call in summer 2018 and completed its methodology development process in late 2018. Input from the Integrated Report work group was incorporated into the methodology document, which was used in the development of the 2018/20 assessment and for generating the 303(d) list.

DEQ released its draft 2018/2021 Integrated Report for public comment in Sept. 2019, and the public comment period ended in early 2020. The Integrated Report covers thousands of miles of waterways and includes a first-ever interactive map that allows users to zero in on a single river or pinpoint a specific river mile and learn about its environmental status. DEQ submitted the 2018/20 Integrated Report for EPA approval in April 2020 and received approval from EPA on Nov. 12, 2020.

Before each reporting cycle, DEQ updates the assessment methodology that describes how each assessment unit will be evaluated. This process has already begun for the 2022 Integrated Report. DEQ will also open our call for data process in early 2021 and will be contacting tribes regarding this work.

#### **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 Clean Water Act 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.

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

In 2019, DEQ initiated a rulemaking 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 be required to implement a mercury reduction plan to further

reduce mercury pollution in the Willamette Basin. A representative of the Confederated Tribes of Grand Ronde served on the Advisory Committee for this rulemaking.

On Jan. 24, 2020, the Environmental Quality Commission adopted rules that established a multiple discharger variance for methylmercury in the Willamette Basin. The variance proposes a temporary change in the water quality standard because the current standard is not achievable due to global sources of pollution. The EQC also approved amendments to the state variance authorization rule to ensure it is consistent with recent federal variance regulations.

### **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. DEQ expects the proposed rules to be considered by the EQC for adoption in early 2021.

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

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.

### **Total Dissolved Gas Water Quality Standard Modification for the Columbia River Dams**

In July 2019, the U.S. Army Corp of Engineers requested a total dissolved gas water quality standard temporary variance applicable to spill at the four lower Columbia River dams operated by the Corps. Although increasing spill at the dams increases TDG, it also improves the survival of juvenile salmonids migrating past the dams by reducing the proportion of juveniles transiting the dams through turbines and other passage routes that have higher mortality rates. DEQ conducted outreach to the Confederated Tribes of Grand Ronde, Nez Perce Tribe, Confederated Tribes of Siletz Indians, Confederated Tribes of the Umatilla Indian, Confederated Tribes of Warm Springs and Confederated Tribes and Bands of the Yakama Nation to inform them of the Corps' request and provide updates of the regulatory progress. DEQ also met with the Confederated Tribes of the Grand Ronde to familiarize them with aspects of the TDG standard modification.

On Jan. 24, 2020, the Oregon Environmental Quality Commission approved the request for a temporary variance of the total dissolved gas water quality standard to facilitate voluntary fish passage spill by the U.S. Army Corps of Engineers to assist juvenile salmonid migration past four lower Columbia River dams: McNary, John Day, The Dalles and Bonneville. The order is effective 2020 through 2024 and modifies the 110 percent TDG water quality standard to 125 percent for spring spill and 120 percent for summer spill.

### **Water Quality Permitting**

DEQ wastewater permitting program made progress on increasing 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 2020, process improvements and staffing improvements made it possible for DEQ to take action on 43 administratively extended permits (as of Sept. 30, 2020), reducing the backlog of National Pollutant Discharge Elimination System (NPDES) wastewater individual permits to 72%. This is down from over 80% in 2018.

In Nov. 2020, DEQ published a permit issuance work plan identifying the individual NPDES permits DEQ plans to issue in the coming year. DEQ identified 51 permits for development during the 2021 federal fiscal year (Oct 1 – Sept 30). DEQ contacted tribal representatives with information about the issuance plan for [individual permits](#)<sup>2</sup> and subsequently have communicated with tribes as they have requested more information or status updates.

### **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 affect 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 Jan., May and Oct. 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 subsequently the 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 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 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 story map and river stories can be found at this website: <https://willametterivertoxicsreductionpartnership.org/>

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. To find out more about the partnership,

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<sup>2</sup> Individual permits issuance plan available at: [www.oregon.gov/deq/FilterDocs/NPDESPIP2021.pdf](http://www.oregon.gov/deq/FilterDocs/NPDESPIP2021.pdf)

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. DEQ presented its updated [Integrated Toxics Reduction Strategy](#) to the EQC in Jan. 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, water and land 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 and efforts to advance safer chemistry in products. The National Tribal Toxics Council is now a member of the Interstate Chemicals Clearinghouse (IC2) along with DEQ and the Oregon Health Authority (OHA). This council's representative also works for the Columbia River Inter-Tribal Fish Commission. As a result, tribal concerns and priorities on toxic chemicals – including those affecting Pacific Northwest tribal members - are reflected into the IC2's plans, tools and resources designed to advance the use and availability of safer chemicals and products.

Beginning in Sept. 2020, additional compounds of interest were be integrated into the toxics monitoring sampling events. These compounds are prioritized from the Toxics Reduction Strategy focus list, and include priority metals including inorganic arsenic and bioavailable aluminum, glyphosate, legacy and current use pesticides, and industrial byproducts. Due to COVID, 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 this winter. 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.

### **Groundwater**

#### **Groundwater Management Areas (GWMA's)**

DEQ has been participating in Lower Umatilla Basin Groundwater Management Area Advisory Committee meetings and working with CTUIR 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 Oct. 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.

### **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 these clean water plans, also known as TMDLs, is summarized below.

#### **Temperature TMDL's**

In Oct. 2019, the U.S. District of Oregon, Portland Division, issued its final order and judgement 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 from the TMDL process. In 2020, DEQ's Director and staff met with Tribal Council on multiple locations to discuss water quality in the region. Tribal water quality staff have served on the local advisory group for the Coquille River TMDLs in the past, and are expected to participate again in 2021 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 Deschutes basin. DEQ completed data collection for this effort in 2016 and plans to begin TMDL modeling in 2020. DEQ will continue to connect with tribal representatives as part of this effort.

### **Temperature TMDL for Columbia and Lower Snake**

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 the EPA must revise the TMDL to assign allocations that meet the Oregon temperature water quality standard and the TMDL fails to do so. 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 needed 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.

### **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. Those cases are ongoing. Nonetheless, DEQ remains committed to working with the abovementioned tribes going forward.

### **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 lawsuit 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 in 2020, which will be a coordinated process between DEQ 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. The Klamath River Renewal Corporation 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 Jan. 2023. DEQ issued a 401 water quality certification in Sept. 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 the 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 confirmatory testing to verify results remain ongoing, that work has not been scheduled.

The Confederated Tribes of Warm Springs has been actively contributing 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 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.

Beginning in late 2019, proposed stakeholder advisory group 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 July of 2020 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 (EJ) 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 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.

### **Application to be Treated As a State**

EPA is authorized to treat eligible federally recognized tribes as a state (TAS) 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 CTCLUSI 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 of the Clean Water Act for all surface waters within the boundaries of CTCLUSI's Reservation and trust lands.

CTCLUSI and DEQ water quality and Western Region staff have discussed the application and discussed what collaboration would be needed between the two governments if the application is approved. DEQ submitted public comments during the public comment period on the application, which will close on Dec. 11, 2020.

## **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, 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. 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.

The Climate Protection 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. DEQ's Director sent an additional letter to tribal chairs about this rulemaking specifically, requesting the opportunity to consult with tribes on aspects of the program to help inform DEQ's rulemaking. At the time of drafting this report, DEQ's Director and staff have met with the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians' Council about this work.

### **Cleaner Air Oregon**

In Dec. of 2018, the EQC adopted rules for Cleaner Air Oregon – 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 nine federally recognized tribes if impacts from specific facilities are expected on tribal lands and when initiating follow-up rulemakings to refine the rules. In Nov. of 2020, rulemaking began to integrate the Cleaner Air Oregon program with the original Oregon Air Toxics Program, adopted in 2003. This work will continue into 2021 and DEQ will continue to update tribes.

### **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 BIA 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
- 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**

During 2020, wildfire smoke response efforts included outreach to all tribal health or environmental contacts for statewide 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. Oregon experienced multiple and concurrent catastrophic wildfires in 2020, in addition to being inundated with smoke from fires burning in California. At certain points in late summer, the entire state experienced unhealthy levels of smoke. Southern Oregon and mid-Willamette Valley were particularly impacted. DEQ interacted with the impacted tribes through the inter-agency smoke response protocols and various Incident Management structures established in response to the fires.

In addition, DEQ staff worked with representatives of the Burns Paiute Tribe, Klamath Tribe and Confederated Tribes of the Umatilla Indian Reservation on associated air quality and particulate matter coordination committees.

### **Regional Haze Plan**

The federal Regional haze rule requires states to address visibility protection for regional haze in Class 1 Areas in each state. In Oregon, there are 12 mandatory federal Class 1 areas, including Crater Lake National Park and 11 wilderness areas. Oregon includes the Columbia River Gorge National Scenic Area in our Regional Haze analyses. EPA requires states to adopt regional haze plans to improve Class 1 area visibility on the most impacted days and ensure no degradation on the clearest days over the next 60 years. The goal of the regional haze rule is to return visibility in Class 1 areas to natural background levels by the year 2064. Additionally, the Regional haze rule requires States to update their Regional Haze Plans every 10 years. The revised plan must show how the State will continue to implement its plan to reduce haze, while meeting both short-term and long-term progress goals to achieve natural visibility conditions by 2064. It requires states to consult with federal land managers during the plan development process, including the U.S. Forest Service, National Park Service, and others. DEQ has initiated government-to-government consultations with all nine of the federally recognized tribes and intends to

conduct a second round of consultations in late 2020 or early 2021. DEQ will share air quality modeling results, discuss areas of concerns and consult the tribes on the development of the plan update. DEQ intends to finalize the 10-year plan update by Summer 2021.

## 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. 1, 2019 and Nov. 30, 2020, DEQ contacted tribes 210 times, representing 73 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 2020 included:

- Hwy 22 Tanker Crash—Feb. 16, 2020: A tanker truck on Hwy 22 near Detroit, Oregon overturned, carrying approximately 6500 gallons of gasoline and 4100 gallons of diesel fuel. The Confederated Tribes of Siletz, Confederated Tribes of Grand Ronde and Confederated Tribes of Warm Springs were notified.
- Semi-Truck Crash and Diesel Spill—March 19, 2020: A semi-truck carrying lumber went off Highway 84 near Celilo Village, went down an embankment, and came to rest on the railroad tracks below. The truck's saddle tanks ruptured in the crash, spilling 100 gallons of diesel to the railroad ballast. The Confederated Tribes of Umatilla and Confederated Tribes of Warm Springs were notified.
- Ruthton Point—May 5, 2020: DEQ received a report of tar balls at Ruthton Point in Hood River through the complaints system. DEQ coordinated with the Columbia River Inter-Tribal Fish Commission to respond, conducted a shoreline assessment to determine the extent of the pollution, and ultimately contracted out for cleanup. The Confederated Tribes of Umatilla and Confederated Tribes of Warm Springs were notified.

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

### Environmental Cleanup

DEQ and tribal governments collaborate on a number of projects to investigate and clean up contaminated lands across the state. During 2020, major projects included:

#### **Armstrong World Industries**

DEQ is overseeing the environmental investigation and cleanup of contamination at the Armstrong World Industries site by the city of St Helens. Contamination at the site extends to the adjacent wetlands of Scappoose Bay and poses health threats to humans, fish and wildlife. Scappoose Bay is a unique off-channel estuary located on the Multnomah Channel near the Columbia River and was once home to tribal villages and an abundance of culturally important plant and fish resources.

Kaiser Gypsum, a significant responsible party and former owner, declared bankruptcy in 2016, prompting DEQ to file a claim for the costs of cleaning up the contamination. DEQ reached a \$10.1 million settlement in 2017 with former fiberboard manufacturers Armstrong World Industries and Owens Corning Fiberglass Corporation. Armstrong, the current owner, also agreed to complete cleanup of the upland, or developed portion of the site. The upland cleanup was completed in Sept. 2019.

Kaiser Gypsum settled its liability for contamination at this site for a cash payment of \$67 million to a site-specific remediation trust with DEQ as the beneficiary. DEQ is unable to fully engage interested tribes until final approval of the settlement is given and the bankruptcy is resolved.

In Aug. 2020, DEQ began initial scoping activities for the lowland portion of the site and contacted the Confederated Tribes of Grand Ronde regarding cultural resource monitoring in order to incorporate information into planning baseline activities for the lowland portion of the site as soon as possible. This includes wetland delineation, surveying, and water level monitoring. DEQ will refrain from performing any sampling or ground disturbance activities that would necessitate a cultural resource assessment until we have a Tribal Engagement Plan in place. An intergovernmental agreement is being developed and will be formalized in early 2021.

### **Astoria Marine Construction Company**

DEQ is overseeing the environmental investigation and cleanup of contamination at the Astoria Marine Construction Company in Astoria. DEQ coordinates with representatives from the Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz Indians of Oregon, the Nez Perce Tribe and Yakama Nation for their input on this cleanup site.

The U.S. Environmental Protection Agency 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. 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 demolition of onsite buildings and structures; excavation of contaminated sediments and upland hot spots; and regrading and capping of the upland area. Work on the river levee will be completed in 2021 at which point DEQ will 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 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. 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 Jan. 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. In 2020, the Five Tribes (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) commented on the proposed cleanup at Willamette Cove during the public comment period.

### **Blue Heron Mill site**

In Aug. 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. In Dec. 2020, a fire at the property caused some damage, the impact of which is being evaluated at the time of this report.

### **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 (Corps) 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 Oct. 2017, the Corps issued a draft feasibility study that evaluates options for addressing contamination in the river. DEQ and Yakama Nation, along with other members of the 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.

In Aug. 2019, the Corps informed the Technical Advisory Group that the President’s budget includes no funding for Bradford Island in the fiscal year 2020 budget. All parties hope that the



Army Corps' funding will be restored. However, in light of this information, DEQ, Yakama Nation, and WA Department of Ecology issued a joint letter to EPA in Oct. 2019 requesting that the site be listed on the National Priorities List (NPL) for 'superfund' cleanup sites. EPA took no action of the request in 2020.

Site investigation activities in 2020 included stormwater sampling, surface water testing and collection of fish, clams and crayfish for lab analysis. Sample results will be available in 2021.

### **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 is working to finalize the remedial investigation/risk assessment report and will continue to collaborate and communicate with tribal representatives in doing so. DEQ's comments on the draft report were submitted to the responsible party on Nov. 26, 2019. There will likely be some additional communication with the responsible party and their environmental consultants before the remedial investigation/risk assessment report is finalized in 2020. Once the report is finalized DEQ will begin work on the feasibility study that will determine the remedial action necessary.

### **Former Portland Gas Manufacturing Cleanup Action**

The Portland Gas Manufacturing (PGM) site consists of five city blocks located along the west bank of the Willamette River between NW Davis and Glisan Streets in downtown Portland. From approximately 1860 to 1913, the manufacture of compressed gas from coal, carbureted water, and oil occurred on-site. Manufactured gas was used, among other things, to fuel the first street lamps in downtown Portland. Following closure, gas-manufacturing operations were relocated downriver to the GASCO site in Linnton. PGM structures were dismantled or demolished at various times between 1913 and 1960. Portions of the site were subsequently filled during construction of the Willamette River seawall between 1928 and 1930, and redevelopment of the site continued with roadway and bridge access ramp construction in the 1940s. A portion of Waterfront Park was built over the easternmost portion of the site (east of NW Naito Avenue) beginning in 1974, while the western site property (west of NW Naito) was redeveloped with commercial buildings and parking starting in the 1970s. This work addressed the historical contamination resulting from gas manufacturing operations along the west bank of the river from the mid-1800s to early 1900s, and is the culmination of investigation started in 2009.

Work was completed consistent with a 2017 Record of Decision issued by DEQ, and recently approved remedial design documents. Cleanup activities included removal of contaminated sediment including tar-like material, capping with clean sand and gravel (some carbon-amended), and natural recovery efforts. DEQ communicated with the Confederated Tribes of the Grand Ronde, Confederated Tribes of Warm Springs, Confederated Tribes of Siletz Indians, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, and the Yakama Nation about this work.

### **Marathon Pipeline**

In Feb. 2020, flooding and erosion exposed a section of a petroleum pipeline that crosses the Umatilla River on the Umatilla Indian Reservation, about 10 miles upstream of Pendleton, Oregon. The pipeline is owned and operated by Marathon Pipe Line, LLC. EPA, DEQ, the Confederated Tribes of the Umatilla Indian Reservation, and Marathon worked together to

replace this section of the pipeline and prevent a spill into the river. In Oct. 2020, Marathon drilled a replacement pipeline 40 feet under the Umatilla River, where the pipeline is more protected from future flooding and erosion risks. The two exposed sections of the old pipeline were drained, purged of fuel and then capped off. By then end of Oct., the exposed old pipes, the super sacks and support structures were removed. This marked the successful end of the “in water” and major work activities for the Umatilla pipe removal.

Additionally, on Sept. 29, 2020, the Cleanup Program released the internal management directive (IMD) “Conducting Ecological Risk Assessments,” which serves as a substantive update to previous guidance, released in 1998 and updated in 2001. This directive explains DEQ’s internal expectations for addressing ecological risk in accordance with Oregon Revised Statute (ORS 465.315(2)(a)) and Oregon Administrative Rule (OAR 340-122-0084(3)). Information about these changes and about how to receive webinar information for a future date was shared with the natural resource contacts for the nine federally recognized tribes in Oregon.

### **High Hazard Rail Contingency Planning Rulemaking**

In 2019, the Oregon legislature adopted HB 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 closes on Dec. 29, 2020 and the final version will go to the Environmental Quality Commission for approval in early 2021.

### **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](#). Grants are for projects that reduce impacts across the full life cycle of materials and products.

The Materials Management grant program conducted outreach with each Oregon tribe by emailing and calling their offices. The program hosted a webinar to provide an opportunity for Tribal Governments to ask questions about the 2020 grant application process on Aug. 11, 2020. DEQ also collaborated with EPA Region 10, the Affiliated Tribes of Northwest Indians, the Oregon Native American Chamber, the Wisdom of Elders Foundation, NAYA Foundation ODX, and the Umpqua Indian Utility Cooperative to promote this opportunity.

### **Drug Take Back Program Rulemaking**

The Oregon legislature adopted HB 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. As part of the Drug Take-Back Program 2020 Rulemaking, DEQ appointed a rulemaking advisory committee that included an independent pharmacist who was previously the Director of Pharmacy at the Klamath Tribal Health & Family Services. Based on the advisory committee’s input, DEQ consulted with the Board of Pharmacy and provided clarification in a [fact sheet](#) on how tribal members can access drug take-back services and how tribal pharmacies and law enforcement agencies can participate in a drug take-back program and offer collection services in their communities. DEQ has since reached out to tribal pharmacies to raise awareness of the Drug Take-Back Program. DEQ plans to continue with outreach to tribal pharmacies and law enforcement agencies in the coming year.

## 6.4. Wildfire Response

### **Debris Management Task Force**

DEQ is coordinating with EPA, other state agencies, and local governments on the cleanup and removal of Household Hazardous Waste (HHW) from properties damaged or destroyed by wildfires. Prior to HHW removal effort, DEQ provided notice to SHPO and to tribes about the locations where we anticipated the work would take place. DEQ staff created a geographic information system (GIS) layer showing these sites and shared a protected version with tribal cultural resource staff to ease their review.

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. The plan directs the contractor to stop work, retreat from the site and give the appropriate notices.

As the Task Force and state contractors continue debris removal across the state, DEQ will assist and provide technical support regarding the proper handling, transport, and disposal of ash and debris, which is 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, NCRRTF, which is designed to provide coordination and implementation for the State recovery and response to catastrophic wildfires in Sept. 2020 and is cocovened by the Oregon Department of Forestry, the Oregon Watershed Enhancement Board, and DEQ. The task force also serves as the coordination and implementation mechanism for State Recovery Function 7 from the March 2018 Oregon Disaster Recovery Plan. The mission of SRF 7 is “to integrate state assets and capabilities to help local governments, tribal governments, and impacted communities address long-term environmental and cultural resource recovery needs after large-scale and catastrophic incidents.” The scope of SRF 7 is to provide “guidance to state departments in aiding local and tribal partners in preserving, protecting, conserving, rehabilitating, and restoring natural and cultural resources.”

SRF 7 objectives are to:

- Implement measures to protect and stabilize records and culturally significant documents, objects, and structures.
- Assess impacts to natural and cultural resources and identify needed protections during stabilization through recovery.
- Complete an assessment of affected natural and cultural resources and develop a timeline for addressing these impacts in a sustainable and resilient manner.
- Preserve natural and cultural resources as part of an overall community recovery.

The NCRRTF is focused on near and long-term post-fire recovery needs, serving as the staff-level coordination and implementing entity for the recovery work in the coming months and years.

Because of the broad scope of the NCRRTF, representation includes state and federal natural resources agencies, along with cultural resources expertise. The task force has participation from the State Historic Preservation Office, the Bureau of Indian Affairs, and the Legislative Commission on Indian Services, and in Nov. 2020, a formal workgroup known as the Tribal Work Group of the NCRRTF was also established. This group include tribes, state and federal agencies. The initial role of the group will be 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/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 Dec. 2020 and the recovery effort is expected to continue through 2021.

## 7. Conclusion

The Oregon Department of Environmental Quality is grateful for the partnership with 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 and the agency will remain committed to improving, building and maintaining strong government-to-government relations with tribes in the future.