



## Oregon Department of Environmental Quality 2011 Annual Government-to-Government Report on Tribal Relations

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3. **Agency Interest Areas:** As the State's environmental protection agency, DEQ coordinates with the nine federally-recognized tribal governments in Oregon on air quality, water quality and land quality issues. The federal Environmental Protection Agency works closely with tribal nations in these same areas.
4. **Department Statement:** In 2002, DEQ adopted a "Statement of Intent" to implement Executive Order 96-30 and the requirements of Senate Bill 770 (ORS 182.162-168). In April, 2010, DEQ updated its Tribal Relations Policy. The policy can be found at: <http://www.deq.state.or.us/programs/tribal/tribalrelationspolicy.pdf> DEQ implements the policy through regular meetings with tribal representatives at the staff, manager and leadership level, and seeking opportunities to collaborate with tribes on issues that are important to tribal members.
5. **Participation in the Government-To-Government Process:** This past year, DEQ participated in the following government-to-government activities:
  - In December 2010, DEQ's Western Region Administrator, Tribal Liaison and Toxics Coordinator met with the Confederated Tribes of Grand Ronde Tribal Council to discuss the development of DEQ's toxics Reduction strategy.

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- In February 2011, Director Pedersen, DEQ's Eastern Region Administrator, Tribal Liaison and Toxics Coordinator met with the Confederated Tribes of the Umatilla Indian Reservation to discuss DEQ's toxics reduction strategy, the proposed fish consumption rate and associated water quality standards for toxic pollutants, process for updating the agency's strategic directions, the 401 water quality certification for the Hells Canyon hydroelectric complex, the 2011-13 budget and proposed legislation.
- In February, DEQ's Western Region Administrator and Tribal Liaison met with the Tribal Council and Natural Resources staff for the Coquille Indian Tribe regarding stormwater issues, future plans for the Tribe to develop water quality standards and clean water plans, and opportunities to coordinate on compliance and enforcement activities.
- In October, the Oregon Environmental Quality Commission (DEQ's policy and rulemaking board), Director Pedersen, members of DEQ's Executive Management Team, and Tribal Liaison met with Natural Resources managers from the Confederated Tribes of the Siletz Indians to discuss collaborative ongoing projects and future opportunities to work together particularly related to water quality.
- In November, Director Dick Pedersen and DEQ's Tribal Liaison attended the Oregon Government to Government Tribal Summit in Lincoln City.
- In November, Director Pedersen and DEQ's Tribal Liaison met with the Confederated Tribes of Siletz Indians Tribal Council to provide updates on projects and topics of interest (including the recently approved new fish consumption rate and water quality standards for toxic pollutants and the mid-Coast TMDL project), and to discuss future opportunities for collaboration.
- In November, Director Pedersen DEQ's Tribal Liaison and Toxics Coordinator met with the Confederated Tribes of Grand Ronde Tribal Council and Natural Resources staff to discuss the recently approved new fish consumption rate for Oregon and water quality standards for toxic pollutants, issues being worked on in Oregon and nationally associated with toxic pollutants and DEQ's draft toxics reduction strategy.
- In November, Director Pedersen and Tribal Liaison met with the Coquille Indian Tribal Council and Natural Resources staff to discuss stormwater issues the Tribe is dealing with, litigation DEQ is involved in, the Tribe's plans for developing water quality standards and how DEQ can support the work, and the Tribes certification for sustainable forest management practices. Director Pedersen scheduled a follow-up meeting on these topics for later in December.
- In November, DEQ's Tribal Liaison attended the annual Oregon Tribal Environmental Forum in Chiloquin, hosted by the Klamath Tribes. DEQ presented updates on projects recently completed (new Oregon Fish Consumption Rate and associated water quality standards for toxic pollutants) and will be working on (Total Maximum Daily Loads scheduled for 2012) as well as the current budget and the upcoming legislative session.

- DEQ's Tribal Liaison or her alternate attended all of the tribal-state Natural Resources Workgroup meetings and Cultural Resources Cluster meetings held in 2011 as an important part of government-to-government relations under Senate Bill 770.

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

- In November 2010, Director Pedersen sent letters to the Chairs of each federally-recognized Tribe requesting consultation on the development of DEQ's Toxics Reduction Strategy.
- In January 2011, DEQ's Tribal Liaison sent an email update to the Natural Resources Cluster members regarding the public comment process for the proposed water quality standards for toxic pollutants.
- In January and February, DEQ sent regular email updates to tribal representatives interested in the Davy Crockett spill and clean up efforts in the Columbia River.
- In June, the Chair of the Environmental Quality Commission sent a letter to the Chair of the of the Confederated Tribes of the Umatilla Indian Reservation inviting them and their designees to join the Environmental Quality Commission for lunch in Pendleton to share perspectives about how we can continue to work together to protect Oregon's environment and to provide an update on the project to Water Quality Standards. The lunch was a successful discussion regarding the excellent collaboration between the Tribe and DEQ on the new fish consumption rate and water quality standards for toxic pollutants and future opportunities to work together.
- In September, Director Pedersen sent letters to the Chairs of each federally-recognized Tribe expressing gratitude for the work done to protect cultural and natural resources, requesting meetings to discuss ways DEQ can strengthen our partnerships and relationships with Tribal Nations in Oregon and requesting consultation on the rulemaking we are doing in our Clean Water State Revolving Loan Fund.
- In October, the Chair of the Environmental Quality Commission sent a letter to the Chair of the Confederated Tribes of Siletz Indians inviting them and their designees to join the Environmental Quality Commission for lunch in Yachats to share perspectives about how we can continue to work together to protect Oregon's environment. The lunch was a great opportunity to hear from the Natural Resources program regarding their projects and interests in the work DEQ is doing to protect and enhance water quality, particularly in the mid-Coast area.

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

6. **Internal Tribal Relations Action/Training:** DEQ's internal tribal relations activities are focused on improving consultation and communication between agency and tribal managers and

staff, as well as providing training to DEQ employees on tribal government, sovereignty and issues of interest to tribal nations.

- Throughout the year, DEQ's Tribal Liaison advised and assisted DEQ managers and staff on issues of interest to tribal nations and provided guidance for consulting with tribal governments on environmental activities.
- DEQ maintains a Tribal Government Relations web page<sup>1</sup> that provides information about the government-to-government process, federally-recognized Tribes and DEQ's tribal relations activities. DEQ employees regularly use this site in learning about tribal nations and our government-to-government responsibilities.
- DEQ managers and staff, representing DEQ headquarters and regional offices, participated in the May Tribal Government Day and state training sessions held in the Capitol and sponsored by the Legislative Commission on Indian Services.
- DEQ maintained an on-line training for DEQ staff and managers through iLearn (a state online tool for trainings). The training covers the history of tribal-state relations in Oregon, tribal sovereignty, government-to-government consultation and opportunities for greater collaboration with tribes.

- 7. Summary of Program Related Issues/Activities:** DEQ works to protect water, air and land quality across the state and interacts regularly with tribal managers and staff on a broad range of activities and issues. Some of the primary areas of collaboration between tribal nations and DEQ over the past year are summarized below.

### **Improving Water Quality**

#### **Increasing the Oregon Fish Consumption Rate for state Water Quality Standards**

In 2011, DEQ continued its work with the Confederated Tribes of the Umatilla Indian Reservation, other tribal nations, the Environmental Protection Agency (EPA) and stakeholders to revise Oregon's water quality standards for toxic pollutants and to incorporate a fish consumption rate that provides improved protections for people who rely on fish for cultural and subsistence purposes. Throughout the water quality standards development and rulemaking process, the Confederated Tribes of the Umatilla Indian Reservation, with the support of many other tribal nations in Oregon, were instrumental in advocating for a higher fish consumption rate to account for Oregonians who regularly consume fish and provided critical support throughout the rule development and public comment process. The Confederated Tribes of the Umatilla Indian Reservation also supported the rulemaking workgroup which provided input on developing implementation tools to address permitting challenges faced by cities, businesses, and other permit holders in complying with more stringent water quality standards. Many tribal nations expressed support for the revised fish consumption rate and water quality standards for toxic pollutants and submitted verbal and written comments at nine public hearings held during

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<sup>1</sup> See [www.deq.state.or.us/programs/tribal/index.htm](http://www.deq.state.or.us/programs/tribal/index.htm).

the public comment period. DEQ's Environmental Quality Commission adopted these rules in June 2011 and the U.S. Environmental Protection Agency approved them on Oct. 17, 2011.

Modifying the water quality standard for turbidity

As part of the rulemaking to update the water quality standards for turbidity, DEQ coordinated early on with tribal governments. A representative of the Confederated Tribes of the Siletz Indians actively participated in the advisory workgroup that was convened for this project. DEQ will be considering turbidity data submitted by the Confederated Tribes of the Siletz Indians when the draft rule language is developed. Work on this project has been postponed until mid- 2012 due to resource challenges and other time-sensitive issues. DEQ will provide updates on this project to tribal nations once the work commences.

Columbia River Toxics Reduction Strategy

DEQ is working with the Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Confederated Tribes of Grand Ronde, Yakama Nation, Nez Perce Tribe, Columbia River Inter-Tribal Fish Commission, Upper Columbia United Tribes, Upper Snake River Tribes Foundation, Columbia River Inter-Tribal Fish Commission and EPA to develop a Columbia River Toxics Reduction Strategy. In September 2010, EPA and the Columbia River Basin Toxics Reduction Working Group released the Columbia River Basin Toxics Reduction Action Plan with 5 initiatives and 61 actions to reduce a wide array of toxics in the Columbia River Basin. The Plan can be found at:

[http://www.epa.gov/region10/pdf/columbia/toxics-action-plan\\_sept2010.pdf](http://www.epa.gov/region10/pdf/columbia/toxics-action-plan_sept2010.pdf)

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

Monitoring toxic pollutants and reducing persistent pollutants

DEQ managers and staff continue to provide information to the Tribal Councils of the federally-recognized Tribes in Oregon and to tribal managers and staff regarding DEQ's priority persistent pollutant testing at wastewater treatment plants (under Senate Bill 737), development of a water quality toxics monitoring program, and statewide toxics reduction strategy. Tribal representatives continue to provide important and valuable guidance to this work, including data and leadership in working with other partners. In addition, representatives from the Confederated Tribes of the Umatilla Indian Reservation and the Confederated Tribes of Grand Ronde serve as members of DEQ's Toxics Stakeholder Group that helped to establish the framework for a comprehensive toxics reduction strategy. DEQ recently released draft toxics reduction strategy recommendations, and will continue to seek input on those draft recommendations from tribal representatives in early 2012. Tribal nations are identified as key implementing partners for some of these draft recommended actions. DEQ looks forward to ongoing partnership with tribal nations in 2012 and beyond to monitor and reduce toxic pollutants in Oregon's environment.

Clean Water State Revolving Loan Fund Rulemaking

The Clean Water State Revolving Fund loan program provides low-interest loans for the planning, design and construction of projects that enhance or protect water quality. The purpose of the rulemaking is to improve DEQ's ability to provide financial assistance to public agencies that have diverse water quality improvement project needs and to provide clarity with DEQ's funding process. Some of the issues identified include:

- Ensuring the statutory definition of public agency is clear in the program rules and eliminating any uncertainty as to who is eligible to apply for a loan. Federally recognized Indian tribal governments are included in statute under the definition of public agency, but the existing rule language is not clear regarding tribal governments and tribal corporations.
- Reviewing project eligibility to ensure the rules do not limit or prevent water quality protection or improvement projects.

DEQ has provided updates on the rulemaking at the natural resources cluster meetings and as stated on page 3 of this report, has sent letters regarding this project to each Tribal Chairperson.

Developing and implementing water quality improvement plans

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

- Mid-Coast TMDL – The Confederated Tribes of Siletz Indians and the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians are active participants with DEQ and others in several aspects of development and implementation of the Mid-Coast TMDL. Both Tribal Nations participated as members of the technical advisory committee and have made important contributions. The Confederated Tribes of the Siletz Indians are working on sediment issues, drinking water protection and aquatic habitat in the Siletz subbasin and are conducting modeling for the Siletz River to support the TMDL. The Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians are collecting important monitoring data from the North Fork Siuslaw River and the Siuslaw Estuary that helps understanding of estuarine processes, protection of beneficial uses, and can be used in TMDL development. Both tribal nations are also providing valuable water quality technical assistance to local partners, including watershed councils, Soil and Water Conservation Districts and municipalities. Work on this TMDL will continue into 2012.
- Umatilla Basin River TMDL –DEQ worked with the Confederated Tribes of the Umatilla Indian Reservation and other local stakeholders to develop a long-term monitoring plan for the Umatilla River Basin TMDL (completed in 2001). The long-term monitoring plan is currently undergoing a technical review by members of the natural resource community. The plan will be finalized during Spring of 2012. The long-term monitoring plan outlines a coordinated monitoring effort between the DEQ and Tribal TMDLs to assess watershed and water quality conditions, document project effectiveness, and establish basin-wide trends.

- Willamette River Mercury TMDL – In 2008, DEQ began initial planning for developing the second phase of a TMDL to reduce mercury in the Willamette River, and in 2009, DEQ invited tribal nations to participate in this water quality improvement plan. DEQ received federal funding to analyze water, sediment and fish tissues for mercury and develop a monitoring plan. DEQ began a one year monitoring project in January 2010. The data was analyzed during 2011 and the results will be shared with Tribal Nations and others interested in early 2012.
- Coquille River TMDL-- DEQ is working closely with the Coquille Indian Tribe to develop the Coquille TMDL to address pollution problems with dissolved Oxygen, temperature, chlorophyll a, toxic algae, pH, and bacteria. The Coquille Indian Tribe has provided valuable technical data for use in the development of the TMDL. DEQ expects to finalize the Coquille River TMDL in the first half of 2012.
- Coos Bay TMDL - DEQ is working with the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians on the development of the Coos Bay TMDL for bacteria. Specifically, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians are collecting bacteria data that is important for the technical analysis and will be used in the TMDL. This TMDL is scheduled to be finalized in 2013.
- Deschutes River Basin TMDL – The Confederated Tribes of Warm Springs Indian Reservation, DEQ and EPA are working together under a Memorandum of Understanding on the development and implementation of TMDLs for the Deschutes River Basin. During 2011, DEQ developed preliminary temperature and nutrient models for water bodies in the Upper and Little Deschutes Subbasins. Tribal staff provided technical assistance in TMDL development and DEQ looks forward to their continued involvement. DEQ, natural resource representatives from the confederated Tribes of the Warm Springs Indian Reservation, and EPA met in Warm Springs in mid-October 2011 to discuss the development of joint temperature TMDLs for the Metolius River. A portion of the Metolius River and its tributaries are located within the Warm Springs Reservation and the Tribe is interested in doing a temperature TMDL for these lands at the same time that DEQ does ours. The TMDLs for the Upper and Little Deschutes Subbasins are anticipated to be completed in 2012.
- Hood River TMDL – The Western Hood Subbasin (which includes the Hood River watershed) TMDL for temperature was approved by EPA in 2002. The Confederated Tribes of Warm Springs were active participants in TMDL development and have continued to participate in TMDL implementation. The Tribe has been involved with trying to coordinate an on-going temperature monitoring program throughout the watershed. In addition, DEQ and the Tribe have also both been active members of technical stakeholder group working with several of the irrigation districts to change district operations to improve water quality.
- Many tribal nations work on TMDL implementation projects to improve water quality throughout Oregon such as channel reconstruction, levee elimination, riparian planting and fencing. Particularly, the Confederated Tribes of the Umatilla Indian Reservation have been carrying out restoration activities that benefit the Walla Walla Subbasin, Umatilla Subbasin

and John Day Basin TMDLs and the Confederated Tribes of the Warm Springs has been conducting restoration activities that benefit the John Day TMDL.

Relicensing hydroelectric projects

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

- Hells Canyon Hydroelectric Project-- DEQ is currently reviewing a Clean Water Act Section 401 Certification application in association with Idaho Power Company's application to the Federal Energy Regulatory Commission for a new federal license for continued operation of the Hells Canyon Complex Hydroelectric Project. The Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Burns Paiute Tribe, Nez Perce Tribe, Shoshone Bannock Tribes and the Columbia River Inter-Tribal Fish Commission are interested in the relicensing process and received notices of DEQ's on-going information requests of Idaho Power Company. DEQ looks forward to continued discussions as the 401 certification process progresses. Snake River site specific criterion request - In January 2011, the Idaho Power Company requested a site specific temperature criterion on the Snake River. The Confederated Tribes of the Umatilla Indian Reservation, Burns Paiute Tribe, Nez Perce Tribe, Shoshone Bannock Tribes and the Columbia River Inter-Tribal Fish Commission provided comments on the request. These comments were presented to the Environmental Quality Commission. The Environmental Quality Commission denied the Petition, though DEQ was directed to consider the proposed site specific criteria during the next water quality standards (triennial) review and rulemaking.
- Pelton Round Butte Hydroelectric Project – DEQ and the Confederated Tribes of Warm Springs worked with other stakeholders to implement the hydroelectric license for this project. 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 2011, DEQ, the Confederated Tribes of Warm Springs and Portland General Electric were involved in a series of meetings to evaluate the water quality impacts, the new selective withdrawal structure at the Round Butte Dam, and to assess compliance with terms of the 401 certification.
- Powerdale Hydroelectric Project – For many years, DEQ, the Confederated Tribes of Warm Springs and others have been involved with a plan for decommissioning the Powerdale Dam on the Hood River, as required by a 2003 settlement agreement. The dam was removed in September 2010, allowing the Hood River to flow free of artificial structures for the first time in 87 years. In 2011, DEQ, the Confederated Tribes of Warm Springs and others participated in a series of meetings to attempt to negotiate the conversion of the Powerdale hydroelectric water right to an instream water right. The stakeholder group was not able to reach consensus. The Oregon Water Resources Department issued a draft final order for the conversion in September, 2011 and accepted comments on the order through October, 2011.

- Wikkiup Dam- In October 2011, the Confederated Tribes of Warm Springs Reservation joined DEQ and other stakeholders in intervening in the licensing process for a new hydroelectric facility proposed for Wickiup Dam. The Tribe expressed interest in working closely with DEQ to explore the best solutions for maintaining and improving water quality during the project. Work on this project will continue into 2012.

#### Pesticide Stewardship Partnerships

Since 1999, DEQ has been using a voluntary, collaborative approach called Pesticide Stewardship Partnerships (PSPs) to identify problems and improve water quality associated with pesticide use. The PSP approach uses local expertise in combination with water quality sampling and DEQ's toxicology expertise to encourage and support voluntary changes which result in measurable environmental improvements.

- Hood River Basin PSP – Two initial pilot projects using the PSP approach in Hood River and the Dalles have shown major improvements in water quality associated with changes in pesticide management practices. The Confederated Tribes of Warm Springs have been active partners in the Hood River PSP since its inception. The Confederated Tribes of Warm Springs obtained funds from the Bonneville Power Administration starting in 2006 to fund the pesticide sampling and laboratory analysis components of the PSP, and has contracted with the Hood River Soil and Water Conservation District and DEQ to conduct this work. DEQ has communicated with the Tribes on a regular basis and provided annual reports on the pesticide monitoring results. In 2009 and 2010, staff from the Confederated Tribes of Warm Springs also collected the majority of the water samples as an in-kind contribution to the project. Although the contract work ended in early 2011, DEQ and the Tribes continue to work together through the Hood PSP group to coordinate various monitoring and stewardship activities in the watershed.
- Yamhill Basin PSP – In 2007, DEQ initiated a PSP in the Yamhill Basin focused on streams in agricultural areas and the City of McMinnville. More recently, DEQ, the Confederated Tribes of the Grand Ronde, the Confederated Tribes of Siletz Indians and the Oregon Department of Forestry evaluated opportunities to expand the Yamhill Basin PSP to encompass managed forest areas in addition to the agriculture and urban land uses already included in the project. With the help of the tribal staff and the Oregon Department of Forestry, stream monitoring locations in forested areas in the South Yamhill River watershed were identified and assessed in late 2009 and 2010. The Confederated Tribes of the Grand Ronde began to collect water samples at those South Yamhill watershed monitoring locations as an in-kind contribution to the PSP project in the fall of 2010. Multiple sampling events were conducted by the Tribes in the spring of 2011. Once the 2011 monitoring data is finalized by the DEQ Laboratory, they will be shared with the Tribes and the Department of Forestry. Possible outreach and stewardship actions may then be developed, based on the monitoring data findings. South Yamhill pesticide monitoring will continue in 2012 if funds are available.

#### Protecting drinking water

DEQ's Drinking Water Protection Program continues to partner with the Confederated Tribes of the Siletz Indians and the cities of Toledo, Newport and Siletz to identify sources of turbidity and

other potential contaminants that pose a threat to the municipalities' drinking water. DEQ and the Confederated Tribes of Siletz are providing technical assistance to the municipalities in developing an improved turbidity monitoring system near water intakes. This is being done in coordination with a Lincoln County Soil and Water Conservation District project to evaluate roads and other land uses for opportunities to reduce sediment delivery to rivers and streams.

#### Other Water Quality Projects

- Walla Walla River – DEQ funded the Confederated Tribes of the Umatilla Indian Reservation through federal Nonpoint Source 319 funds for restoration activities on the Walla Walla River including levee removal/modification, improving floodplain connection, and planting native vegetation. These efforts will improve conditions for local populations of native redband trout/summer steelhead, bull trout, and recently reintroduced spring chinook salmon. This project was completed during 2011 and has been very successful. Existing riparian vegetation has been greatly improved and new vegetation (planted as part of this project) has established and is growing well. The channel improvements and flood plain re-connection will provide a considerable amount of new habitat, and great improvement in existing habitat. This project represents an extraordinary level of cooperation and coordination among many partners.
- Meacham Creek Restoration Bioassessment - DEQ funded a project on Meacham Creek through federal Nonpoint Source 319 funds to support restoration projects by the Confederated Tribes of the Umatilla Indian Reservation in the Umatilla River Basin. In an effort to reduce water temperatures and increase salmonid habitat through restored channel-floodplain connectivity, the tribal staff are removing/redesigning the dikes and levees along Meacham Creek and monitoring water temperatures, hyporheic flow, and salmonid abundance before and after restoration. The DEQ grant funded the collection of aquatic macroinvertebrates at seven sites along the historic channel in the area proposed for re-activation, and at two sites in the North Fork Umatilla River. This Project represents a cooperative, collaborative effort between Oregon State University, Confederated Tribes of the Umatilla Indian Reservation, and DEQ. This project finished in January 2011 and was very successful. Additional phases of this monitoring (funded by other sources) are currently ongoing and will be continued in the future. The data collected from the project and ongoing monitoring are being used to better characterize the benefits of restoration work and to more clearly understand the timeline associated with improvements in water temperature and habitat and the associated response in macroinvertebrate populations. This information will help to better direct restoration efforts both in the Umatilla Basin and throughout the Pacific Northwest.
- Red Boy Mine Assessment and Restoration – DEQ funded an assessment and restoration project through federal Nonpoint Source 319 funds at the Red Boy Mine in the John Day River Basin near Granite, Oregon. The mine was categorized by the DEQ as an Orphan project in May 2000, and placed on its Confirmed Release List in 2003. Mine drainage contains high concentrations of arsenic and iron, representing a strong threat to spring Chinook, summer steelhead and several species of resident fish in Granite and Clear Creeks. Project work will identify concentrations of toxic metals in stream surface water, sediment,

and adjacent waste rock piles and will assist with the design and ultimate remediation of contaminated areas in the watershed. These remedial efforts are a key element of comprehensive habitat improvement for anadromous fisheries in Upper John Day River Watershed. Project partners and include the North Fork John Day Watershed Council, Confederated Tribes of the Umatilla Indian Reservation, Cascade Earth Sciences, Landowners, Oregon Watershed Enhancement Board, and U S Forest Service.

- Milton-Freewater Levee Setback Assessment – DEQ funded a levee setback assessment project in 2010 and 2011 through federal Nonpoint Source 319 funds on a seven-mile segment of the Walla Walla River near Milton-Freewater, Oregon. Water temperatures in the levee section of the river increase by about two degrees per mile (double that of temperature increases in the upstream sections) due to channelization and irrigation water withdrawals. An aggressive, cooperative program to enhance irrigation efficiency and improve fish habitat is being implemented in the basin and opportunities to improve channel geometry, sinuosity, and increased shading are being actively pursued. This project will develop and implement a plan that will evaluate opportunities to modify the existing levee in ways that will better allow flood control, fish passage, reduced sediment, healthier river geometry and reduced thermal exposure for aquatic species including Endangered Species Act listed bull trout and Steelhead, and reintroduced Chinook salmon. Project partners include Oregon Department of Fish and Wildlife, Oregon Department of Transportation, US Army Corps Of Engineers, Confederated Tribes of the Umatilla Indian Reservation, the Milton-Freewater Water Control District, local irrigation districts, Umatilla County, Milton-Freewater, National Oceanic and Atmospheric Administration – Fisheries Division, US Fish and Wildlife Service, Bonneville Power Administration), Milton-Freewater Chamber of Commerce, the Recipient, and local landowners, FEMA, Oregon Watershed Enhancement Board, DEQ and others.
- Umpqua Basin – The Cow Creek Band of Umpqua Tribe of Indians has been working with DEQ and other local partners in efforts to better understand the causes and connections related to harmful algae blooms in the South Umpqua River since several dog deaths were reported during 2009-2011. DEQ anticipates that these relationships will expand through an upcoming Section 319 grant to the Partnership for the Umpqua Rivers to coordinate a water quality monitoring, drinking water protection and nonpoint source pollution reduction project targeting harmful algae blooms.
- Stormwater issues in Coos Bay and North Bend- DEQ has been working cooperatively with the Coquille Indian Tribe on a number of specific issues associated with stormwater in the cities of Coos Bay and North Bend. Each situation has been unique, but all have had an impact on Coquille Indian Tribal land and/or associated waterways. Coordination and collaboration on these issues will continue throughout 2012.

### **Improving Air Quality**

#### **Improving air quality in the Columbia River Gorge**

In 2011, the Columbia River Gorge Commission approved DEQ's proposed plan for improving visibility in the Columbia River Gorge National Scenic Area. DEQ's Gorge air quality strategy

was many years in the making, and included extensive discussions on science and policy with the Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Yakama Nation and Nez Perce Tribe. While DEQ's Columbia Gorge Air Quality Project is completed, DEQ remains open and willing to discuss any air quality concerns with tribal nations.

#### Partnering with tribal nations on air monitoring

The Confederated Tribes of the Umatilla Indian Reservation operates an air quality monitoring station in Pendleton as DEQ was no longer available to operate the site. In addition, DEQ provided assistance to the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians in operating a fine particulate air quality monitor in Coos Bay, providing technical assistance and training at DEQ's Laboratory. DEQ welcomes the opportunity for greater partnership with tribal nations in establishing and operating air quality monitoring stations. DEQ can provide technical assistance, data analysis and data reports to support tribal monitoring projects.

#### Responding to open burning complaints and asbestos issues

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

### **Improving Land Quality**

#### Notifying tribal nations of hazardous material spills

In response to requests from tribal cultural resource managers, DEQ developed protocols in 2007 for notifying tribal nations of hazardous material spills that occur near highways, railways, waterways or in other areas of the state.<sup>2</sup> Although EPA, first-responders, or others may be required to notify tribes during certain spill events, DEQ also notifies tribes when the event involves a significant threat to the environment so that each tribal nation can determine how to be involved in the clean up effort and DEQ can ensure that cultural resources are protected. DEQ works with many tribal nations in responding to spills on a regular basis.

In 2009, DEQ developed a Geographic Information System (GIS) for DEQ's emergency response program activities. Among other data layers, the GIS system allows DEQ to quickly identify tribal governments, and associated contact information, for spills of potential interest to each of Oregon's tribal nations. This GIS system is a work-in-progress as DEQ is continuing to refine and add geographic information layers to assist in response actions. In addition, DEQ is working to provide training and support for use of the GIS system for DEQ staff involved in emergency response and spill situations.

#### Investigating and cleaning up contaminated sites

DEQ and tribal nations have collaborated on a number of projects over the past year to investigate and clean up contaminated lands across the state. Some significant projects are described below.

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<sup>2</sup> The protocols, entitled *Guidance for Protecting Cultural Resources during Cleanup Work*, is available on DEQ's web page at [www.deq.state.or.us/pubs/reports.htm](http://www.deq.state.or.us/pubs/reports.htm), under the "Site Investigation" section.

- Portland Harbor Superfund Site – DEQ works closely with six tribal governments on the Portland Harbor Superfund Site and the McCormick & Baxter Superfund Site. The Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz Indians, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Yakama Nation, and Nez Perce Tribe are partners in these projects.
  - Portland Harbor Superfund Site: The Portland Harbor Superfund Site is located in the Lower Willamette River, stretching approximately ten miles from River Mile 2 to River Mile 12. EPA is the lead agency working on investigating and cleaning up pollution in the river itself, primarily in the sediments of the river bed. DEQ is the lead agency working with property owners alongside the river to identify, control and eliminate sources of pollution that are moving or could move toward the river from contaminated lands. DEQ is also leading investigation of the downtown reach of the Lower Willamette River to determine if contamination exists in this reach and threatens future Portland Harbor cleanups.
  - McCormick & Baxter Superfund Site: The McCormick & Baxter Superfund Site is located on the east bank of the Lower Willamette River at River Mile 7, within the bounds of the larger Portland Harbor Superfund Site. DEQ is the lead agency for cleaning up this site, working in partnership with EPA, the tribal governments and others. Upland soil, groundwater, and river sediment remedies have been implemented at McCormick & Baxter, & DEQ is currently evaluating the performance of those remedies.
  - Natural Resource Damage Assessment: Oregon Department of Fish & Wildlife is the state lead agency working with federal agencies and tribal nations on the Portland Harbor Natural Resource Damage Assessment effort, which seeks to restore the natural resources (e.g., fish populations, wildlife, habitat, etc.) that are damaged by contamination. DEQ is supporting the Oregon Department of Fish and Wildlife in this role.
- Bradford Island – DEQ continued working with the Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Yakama Nation and Nez Perce Tribe on evaluating contamination levels at Bradford Island in the Columbia River. Toxic chemicals were dumped at the river decades ago. Cleanup so far has involved two efforts to remove electrical components from the river in 2000 and 2002, and dredging of contaminated sediment in 2007. The Army Corps of Engineers is completing a risk assessment that DEQ, the Tribes and others will review. This document assesses risk posed by remaining contamination and will be the basis for deciding what additional measures are needed. The draft risk assessment was submitted in November 2010. DEQ and the US Army Corps of Engineers have had extensive discussions over DEQ comments, most of which have now been resolved.
- Coos Head Air National Guard clean-up site — DEQ continued working with the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians on cleanup projects at the Coos Head site, which was acquired by the Tribes in 2005. The site was formerly owned by the Federal Government, which is responsible for paying costs associated with cleaning up the site to industrial standards. DEQ is overseeing the work being done by the Air

National Guard, the US Navy, and the US Army Corps of Engineers and coordinating with the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians and the Bureau of Indian Affairs to complete the cleanup work at the site as quickly as possible. Much of the site has already been remediated, and DEQ estimates that a decision document for the remaining affected areas will be in place by July of 2012. Remedy construction will begin in 2013.

- Mill Casino property – DEQ has been working with the Coquille Indian Tribe on the Mill Casino property in North Bend. The site was a formerly contaminated Weyerhaeuser lumber mill. DEQ is working with the Coquille Economic Development Corporation and PacifiCorp to clean up pollution from a nearby former PacifiCorp manufactured gas plant that has migrated onto the property. DEQ selected a formal remedy for the pollution last year, and it was implemented over this past summer. DEQ will issue a No Further Action determination after the remediation report has been finalized and submitted, likely during 2012.
- Gold Bluff Mine: DEQ recently worked with Cow Creek Band of Umpqua Tribe of Indians after a couple sections of timberlands near Riddle were purchased. One of the parcels of land had a former abandoned mine on it that DEQ had an open cleanup project on. DEQ was able to finalize the No Further Action for the site shortly after the purchase was made
- Fifteen Mile Creek – During 2011, DEQ resumed working with the Oregon Department of Transportation (ODOT) to address environmental issues as the I-84 bridge over Fifteen Mile Creek is replaced. A truck carrying containers of herbicide crashed on this bridge in 2000. A significant amount of the herbicide spilled into the creek, killing thousands of lamprey. Some contamination remains in the soil and rock above the creek. In response to DEQ's concerns, ODOT took several steps to prevent herbicide-contaminated soil from entering the creek during ongoing construction. In response, concerns regarding the absence of lamprey in the creek from the Confederated Tribes of Warm Springs, ODOT and DEQ conducted more extensive sediment sampling in late 2010. Additional sediment sampling will be done quarterly for the next several months and results will be shared with the Confederated Tribes of the Warm Springs in addition to any additional actions to clean up the contaminated sediments. The next sampling event is scheduled for January 2012.

#### Umatilla Chemical Agent Disposal Facility

Throughout 2011, the staff of DEQ's Chemical Demilitarization Program in Hermiston continued work with the Confederated Tribes of the Umatilla Indian Reservation on DEQ's oversight of the Umatilla Chemical Agent Disposal Facility. Pursuant to a Memorandum of Agreement between DEQ and the Confederated Tribes of the Umatilla Indian Reservation, the two parties consult, coordinate and communicate on a government-to-government basis on matters related to state permitting activities that apply to the U.S. Army's program to destroy chemical weapons and munitions at the facility.

#### Other Projects

- Northwest Environmental Conference and Tradeshow (NVEC) - During planning for the 2011 Northwest Environmental Conference, DEQ solicited input from the Cultural and

Natural Resources Cluster groups regarding topics of interest. In addition, a representative from the Confederated Tribes of Grand Ronde was appointed the 2011 NWEC Steering Committee. This resulted in two sessions at the conference devoted to tribal issues, “Consulting With Tribal Nations and “Tribal Experiences with Natural Resources Management,” and was a first for the conference.

- Supplemental Environmental Projects DEQ’s Office of Compliance and Enforcement assesses civil penalties for environmental law violations. Violators are sometimes given the opportunity to offset their monetary penalty by agreeing to pay for a supplemental environmental project.
- During 2011, DEQ assessed a civil penalty to Washington Demilitarization Company (the operator of the chemical weapons incinerator in Umatilla), and as part of the resolution of that case, the Washington Demilitarization Company contributed \$36,968 in funding to the Tribal Air Monitoring Support Center at the Confederated Tribes of the Umatilla Indian Reservation Governance Center in Mission, Oregon through a Supplemental Environmental Project.
- The Tribal Air Monitoring Support Center utilized an existing EPA air monitoring trailer and provides continual air quality monitoring for the Confederated Tribes of the Umatilla Indian Reservation (including sulfur dioxide, nitrogen oxides, ozone, and less than 2.5 particulates), tests air monitoring equipment, systems, and configurations, and trains tribal air quality staff from around the U.S. The Supplemental Environmental Project funds have been used for siting the trailer, including erecting a security fence and providing electricity, conducting initial shakedown operations, and developing training course materials.

### **Developing Information Systems**

DEQ continues to collaborate with tribal nations in developing and implementing data exchanges as part of the National Environmental Information Exchange Network. The tribal nations are building data infrastructures to share environmental data through the Exchange Network. Specifically, DEQ makes available a regional data exchange, the Pacific Northwest Water Quality Exchange to tribal partners as a mechanism to share data. DEQ assists tribal nations and tribal associations nationwide in their participation with the Exchange Network and technical assistance with such efforts. (See [www.exchangenetwork.net](http://www.exchangenetwork.net) for more information.)

### **Consultation on projects with federal Clean Water State Revolving Loan funding**

DEQ continues to administer federal funds associated with the Clean Water State Revolving Loan capitalization grant and works with city and county applicants to ensure that early consultation with tribal nations occurred on projects with ground-disturbing impacts.

### **Work with other Tribal Nations and Organizations**

- The Columbia River Inter-Tribal Fish Commission is working with DEQ on the Columbia River channel deepening project, which is increasing the depth of the Columbia’s navigation channel from 40 to 43 feet to allow passage of larger ships. The Columbia River Inter-Tribal Fish Commission is overseeing implementation by providing feedback to DEQ based on field

observations to help protect water quality during the project. The channel deepening work was completed in 2010. Monitoring and adaptive management of the project will continue until 2013 to determine impact on natural resources and water quality due to the project.

In 2010, DEQ began collaborating with Columbia River Inter-Tribal Fish Commission (CRITFC) and the Oregon Health Authority on quantifying the level of PCB's, PBDEs, DDT, chlorinated pesticides and mercury. Lamprey samples were collected from the Deschutes, Willamette and Columbia rivers. Data will be evaluated to determine if a lamprey fish consumption advisory should be issued. Data results will be available in early 2012 from Oregon Health Authority.

- Harbor Oil Superfund Site – DEQ works with the Yakama Nation and Nez Perce Tribes on investigation of the Harbor Oil Superfund Site in Portland, near the Columbia River. DEQ used to work with some of the federally-recognized tribes in Oregon on this project, but active participation since 2010 has come from the Yakama Nation and Nez Perce Tribes. The risk assessments for the site have been finalized and approved by EPA, and a proposed plan is expected in the Spring of 2012.