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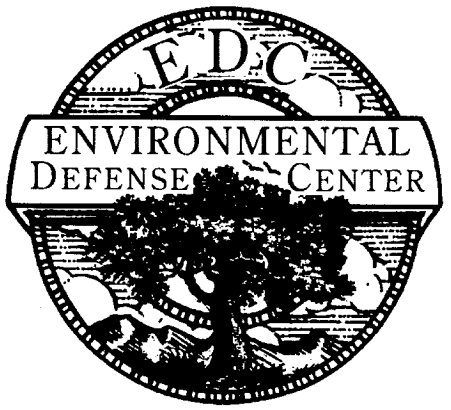
ENVIRONMENTAL DEFENSE CENTER



May 22, 2000

Content Analysis Enterprise Team
USDA-Forest Service
Building 2, Suite 295
5599 Amelia Earhart Drive
Salt Lake City, UT. 84116

RE: **Comments Regarding the *Unified Federal Policy for Ensuring a Watershed Approach to Federal Land and Resource Management***

Dear USDA-Service Content Analysis Enterprise Team,

These comments are submitted on behalf of the Environmental Defense Center ("EDC") regarding the February 22 draft version of the *Unified Federal Policy for Ensuring a Watershed Approach to Federal Land and Resource Management*. The EDC is a non-profit public interest environmental law firm serving the tri-county area of Santa Barbara, Ventura, and San Luis Obispo Counties in California. We genuinely feel that this draft policy must; (1) ensure that the federal government is held to the same standards as everyone else, (2) protect priority watersheds, (3) allow adequate public participation, and (4) provide for adequate resources to fulfill the goals of this policy.

First the federal government must be held to the same standards as all those who must comply with federal environmental regulations. In fact, the federal government should not only meet water quality standards as mandated by the Clean Water Act, they should serve as a model to states and the private sector by setting loftier goals. Examples of goals the federal government should set are assuring protection of high quality and sensitive watersheds, and setting a date for when federal water quality standards in federal degraded watersheds must be met.

In addition, to comply with the anti-degradation requirements of the Clean Water Act, activities on federal land must not degrade water quality. In order to achieve compliance with anti-degradation regulations, federal agencies should not allow an activity until they determine that the activity does not degrade water quality. As such, activities that require a federal permit should not be granted until it is assured that the permit will protect water quality. This is often ignored in land management decisions.

Further Best Management Practices (BMPs), though useful and a good idea should be reviewed and revised. Some of these BMPs are outdated and fail to incorporate the state-of-the-art practices currently available. Ensuring that the best BMPs are implemented requires federal agencies to review and revise BMPs on a regular schedule, especially since the effect of BMPs

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valuable expertise to supplement that of federal agencies. In addition, the quality and viability of the watersheds selected and the criteria used depends on allowing the public to have an input in the selection. The policy should create a clear and straightforward petition process that cuts across federal agencies to enable citizens to petition for the selection of watersheds in need of special protection or restoration. Current language about the involvement of stakeholders is inadequate. Citizens need an explicit opportunity to initiate selection rather than simply react to government plans.

Finally, to achieve all these goals, each federal agency must commit to asking for adequate funding. Existing federal agency budgets do not contain sufficient funding to implement this policy. Without new funding and a commitment to this policy, the policy is ineffective.

The success of the Clean Water Act is dependent on federal land managers doing their share. Many of the nation's waterways are located on federal lands and/or impacted by activities on federal land. It is essential that the unified federal policy produce meaningful results. Thank you for offering an opportunity to submit comments on the *Unified Federal Policy for Ensuring a Watershed Approach to Federal Land and Resource Management*. We hope you consider our comments as you finalize this new policy.

Sincerely,

Vicki Clark
Staff Attorney

Reza Tabatabai
Intern
Environmental Defense Center

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on water quality is often not measured. Monitoring is critical in determining that BMPs are actually protecting water quality. Regular review of BMPs will also guarantee that they are effective and that private and public activities on federal lands comply with the BMPs. The results of monitoring BMPs should be used to help update BMPs on a regular schedule.

Second, we recommend that priority watersheds be considered Outstanding National Resource Waters (ONRWs). A watershed is given priority because of its importance as habitat, for recreational uses, for drinking water supplies or for other values. This policy should include a mechanism for federal land managers to recommend to the relevant state or tribe that priority watersheds be classified as an ONRW. However even before official state designation the priority watershed should be treated as an ONRW and reduction in water quality should be prohibited. It only makes sense that if a watershed is to be given priority in addressing issues of water pollution, that the problem is not allowed to get worse before the watershed is officially designated.

In addition, the policy should include a specific focus that directly connects the data collected to management and regulatory decisions. In particular, the policy should explicitly provide that information gathered by and for federal agencies as part of watershed assessments would be systematically integrated into water quality reporting and assessment programs under the Clean Water Act. When the data that is collected is not used to assist reporting and assessment programs then its full value is lost. Integrating data requires effective methods of sharing information between federal agencies and the states that are primarily responsible for water quality reporting under CWA programs. This is an opportunity for federal lands to become models for collaborative data gathering analysis and information-based decision making. Currently an ongoing effort to harmonize federal, state, tribal, and private data gathering is done under the Advisory Committee on Water Information and its subsidiary the National Water Quality Monitoring Committee. More should be done in this policy to endorse and support those efforts.

Further, this policy allows federal agencies a 10-year water quality reporting schedule. This assessment cycle does not satisfy the Clean Water Act's biennial reporting requirements and should be changed. Federal agencies must be held to the same 2-year reporting schedule that state agencies have to comply with for the biennial assessment review cycle. A lot happens in ten years. Regular monitoring and evaluation should be required to ensure that actions taken to protect water quality are effective.

Third, public participation is necessary to make this policy effective. The public sector should be allowed to ask for the selection of watersheds in need of special protection through a public petition process. Non-governmental organizations have a great deal to contribute to the establishment of criteria and selection of priority watersheds. Members of the public have

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