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Date: 5/25/00

To: Content Analysis Enterprise Team

Office:

From: Fish and Wildlife Service

Subject: Letter from FWS

Comments:

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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

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In Reply Refer To:
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MAY 24 2000

Content Analysis Enterprise Team
U.S. Forest Service
Department of Agriculture
5500 Amelia Earhart Drive, Suite 295
Salt Lake City, Utah 84116

Dear Team Members:

The Fish and Wildlife Service has reviewed the Proposed Policy for Ensuring a Watershed Approach to Federal Land and Resource Management.

We generally agree with the Proposed Unified Federal Policy and its goal of ensuring consistent watershed management across Federal agencies. The Policy goals are similar to our own ecosystem approach to conservation. We have particular interest in the Policy as it specifically relates to Federal lands and the potential for broad benefits to Federal trust resources, lands and people who are connected to these aquatic and watershed resources. Ideally, the Policy would increase coordination efforts under the Clean Water Action Plan within watersheds and emphasize the need for land managers to consider the effects of their actions on a system rather than just within the boundaries of the lands/resources they manage.

The Service has been involved in crucial water quality issues for many years, working on - and off - Service lands with partners. We strongly believe that watershed management provides another valuable tool for protecting and improving our Nation's waters. The following comments are offered for your consideration.

GENERAL COMMENTS

Importance of Watersheds as Functional Systems

The proposed policy effectively outlines the elements of a watershed approach from the perspective of watersheds viewed as geographic units. However, it should explicitly recognize the importance of watersheds as functional systems consisting of inseparable aquatic and terrestrial components. These systems are united by key processes including hydrology, sediment transport, and nutrient transport. Working with these processes is vital to understanding the relationships among multiple land uses and ownerships within a watershed, and to achieving the Policy's stated goals of improving water quality and aquatic ecosystems.

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Definitions

The word resources receives mixed usage and is thus confusing. The Notice and the document speak to fiscal resources as well as biological resources. The terms Federal lands and resources, Federal aquatic resources, and Federal natural resources are all used apparently interchangeably. Also, the terms trust species and biological resources were dropped. They are important in our context.

We recommend using only the term Federal lands and resources for consistency and then defining the term to be more inclusive in the glossary: *Federal lands and resources include land and other tangible properties under Federal ownership or control. Federal resources may include both fiscal and human resources. However, the term "resources" also includes biological and other natural products (e.g., hydrologic flow regimes) in which the Federal Government has a statutory or regulatory interest. Federal biological resources which could potentially be affected and benefitted by this policy include recreational fisheries, imperiled aquatic species, waterfowl and migratory birds, and interjurisdictional and anadromous fisheries.*

Emphasis on the Science of Watershed Management

The Policy implies that Federal agencies are not applying certain Clean Water Act principles prior to this proposal. If, in fact, Federal agencies are not using consistent and scientific approaches to management actions, or adhering to CWA requirements, then this Policy is long overdue. However, we recognize that the science of management at the watershed level is relatively new, and efforts to incorporate these objectives into all Federal agency watershed actions should be encouraged. Therefore, the Policy must be implemented in the context of the progress already made by Federal, State, Tribal, and other entities to advance a watershed approach. The Service has already taken several significant steps under the umbrella of its ecosystem approach. For example, in Oregon, this includes working with State and other Federal agencies to provide technical data and other assistance to locally-formed watershed councils for watershed assessment, restoration, and monitoring. The Policy should recognize these ongoing non-Federal efforts or be a complement to them.

Maintaining Existing High Standards

The Policy also implies that land management agencies are often the source of environmental pollutants and poor water quality. It should be noted, particularly in the case of the 93 million acre National Wildlife Refuge System land, that public lands are often the recipient of pollutants, yet contribute to thousands of acres of wetland restoration annually. As defined in the Notice, a watershed designated for special protection may require restoration work, but may also need action to ensure preservation of existing water quality conditions. This designation is similar to the Clean Water Act's antidegradation requirements. One criterion for consideration when selecting watersheds for this designation should be if a significant portion of a watershed

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lies within the boundaries of a National Wildlife Refuge. As a critical component of the Fish and Wildlife Service's mission to conserve and protect our Nation's wild living resources, National Wildlife Refuges should have their watersheds protected from any water quality degradation.

Watershed Assessments

The Notice states that Federal watershed assessments will be significantly different (e.g., size and level of detail) than State and Tribal Unified Watershed Assessments (UWAs) conducted under the Clean Water Action Plan. These Federal watershed assessments will then be used to identify priority watersheds for Federal action. While it may be true that many of the UWAs will be too coarse and of too large a scale to provide useful information for relatively small Federal holdings, there will be many UWAs where this disparity is not so great. In those instances, it may be more cost-effective for the Federal agencies to rely on the State or Tribal UWAs, instead of duplicating assessment efforts. The necessity for coordinating these assessments should also be underscored.

Identification of Priority Watersheds

The Policy further proposes the identification of priority watersheds based on a number of factors. The majority of these are reasonable, such as existing impairments and percentage under Federal management; however, the list of factors also includes the extent of public interest. This is an inappropriate criterion when the Policy's goals are to prevent and reduce water pollution in a unified and cost-effective manner. Priority ranking should be based solely on the physical, chemical, and biological integrity of the watersheds in question, not on how much interest the public has in protecting and restoring any particular watershed.

Budget Development/Fiscal Resources

Throughout Section II there are objectives requiring many on-the-ground activities, like: "We will conduct watershed assessments..." and "We will improve watershed conditions through restoration and adaptive management." These activities will be very time-consuming and labor-intensive, yet nowhere in the Policy does it mention who will perform these duties or how the activities will be funded. Without a budget structure proposed, the Policy risks being another statement lacking substance. Most agencies are already overworked with existing priorities and lack of funding. In the case of the Service, no Clean Water monies have been received-to-date by the very programs at the heart of implementation-the National Wildlife Refuge System, the Endangered Species Program, and Fisheries Programs, and the Environmental Contaminants Program, whose activities to protect and conserve Trust species cut across the mission of all involved agencies.

Specific Comments

Page 8834, Column 2, About the Proposed Goals and Principles: We suggest an additional goal: *Promote a functional approach that emphasizes maintaining and restoring watershed functions that are critical for aquatic ecosystems and water quality, such as hydrology, sediment supply, and nutrient supply.*

Page 8834, Column 2, last paragraph to Column 3, Sentence 1: This sentence is very water quality-oriented but neglects aquatic ecosystems. Add text in italics: "...the highest priority problems *and resources...*" Also, the description of a watershed approach is too narrow. Add text in italics: "...both ground and surface water flow, *the spatial patterns of aquatic biota, and spatial distribution of land management and condition.*"

Page 8834, Column 3, fifth bullet: Add text in italics: *Restoring the function and condition of watersheds;*

Page 8837 Section II: "Agency Objectives," offers a contradictory statement in the opening paragraph, and requires further clarification. The opening sentence of this section reads that in order to accomplish the stated goals, the policy proposes using available resources and authorities to pursue the various objectives. However, the following sentence states, "All agencies will implement this policy as individual agency laws, missions, and fiscal and budgetary authorities and resources permit." If this is truly to be a unified Federal policy, the reasons and circumstances allowing Federal agencies to not implement it should be explicitly detailed. Otherwise, it will appear that implementation is up to agency discretion.

Page 8837, Column 1, I. Goals: This section recognizes ongoing programs, but it is not clear whether it refers to Federal programs or more broadly to State and other programs that may be related. The policy will need to be implemented in a way that builds upon, rather than undermines, existing efforts by States, Tribes and other entities. While States will certainly welcome consistency by Federal agencies, they may not welcome new approaches, like new methods for assessing watershed function and condition, when they have developed their own approach that attempts to break down land ownership distinctions (see general comment on watershed assessment). We recommend that the Policy include the following goal statement: *the Federal family will work with States and Tribes to develop compatible, and integrated watershed assessment procedures.*

Page 8837, Column 2, Paragraph 1 (also Page 8834, Column 2, Supplementary Information): The Policy should explicitly aim to protect the health of aquatic ecosystems. This should be a key element, not simply an expected outcome. We recommend that a goal be included that directly emphasizes restoring and maintaining aquatic ecosystems. Add the following: *G. Promote a functional approach that emphasizes maintaining and restoring watershed functions that are critical for aquatic ecosystems and water quality, such as hydrology, sediment supply, and nutrient supply.*

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Page 8837, Column 2, Section II: In establishing goals and objectives for any program, objectives are generally time-specific; that is, they establish time-frames within which objectives are to be met. We understand the problems in establishing time-frames for a broad policy of this nature. We also are aware that item 2.b. under this section is the provision for developing schedules for assessments in priority watersheds and identifying needed resources to assess all identified watersheds. However, we recommend that a deadline be established for developing the schedules for priority watershed assessments and other provisions of this item.
We agree that overall goals and objectives for the watershed should be developed. However, we recommend that separate goals and objectives be established for each ecosystem type within the watershed. To establish adequate monitoring plans, a critical element in the adaptive management process, conceptual models of these ecosystems may need to be developed.

Such models may be necessary to determine appropriate indicators for each ecosystem that would be monitored as part of the process. The indicator development strategy used by the Environmental Protection Agency's Environmental Monitoring and Assessment Program (EMAP) may be helpful in establishing these protocols.

Page 8837, Column 3, Section II. A. 2: The Policy should clearly state that the assessment should examine the adequacy of current water quality standards in the situations described above for the terminal watersheds in the Intermountain West. The Policy appears to assume that water quality standards are adequate within a given State. However, the Nevada Fish and Wildlife Office is concerned that water quality standards that were developed by the Environmental Protection Agency and implemented by the State of Nevada were not developed to protect biological resources in terminal systems.

Terminal systems occur throughout the Basin and Range Province of the Intermountain West. Total dissolved solids and various metals and trace elements become concentrated in terminal wetlands due to evaporation in arid climates. These constituents, when elevated under such conditions, may cause adverse effects on habitats that are important to wildlife, including migratory birds, and some constituents may have direct deleterious effects on wildlife.

Page 8838, Column 1, Section II. B.1.b.: Add two additional factors: (7) The presence and condition of Federal trust resources; and (8) The adequacy of current water quality standards to protect biological resources in terminal systems.

Page 8838, Column 1, Section II.B. 3.: Specifies that "We will implement pollution prevention and controls, consistent with applicable authorities." We recommend that this section include a provision to allow Federal agencies to take a unified approach in petitioning appropriate entities to improve water quality standards to adequately protect biota where the watershed assessment demonstrates that such protection is warranted.

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Page 8838, Column 1, last paragraph (item 6) to Column 2: Add language: "...minimize impairment of current or future uses, *promote the health of aquatic resources, especially Federal trust resources,* and..."

Page 8838, Column 2, Section II.B.7.: This item specifies that agencies will help States and Tribes develop science-based total maximum daily loads (TMDLs). As discussed above for standards in general, TMDLs must be based on appropriate standards to protect biological resources.

Page 8838, Column 1, Section II.C.: Item 1 states that Federal agencies will review agency policies to improve compliance with water quality requirements. Simply reviewing agency policies will not achieve any improvement in compliance but is a first step. We recommend the item be reworded to say *"We will review agency policies to ensure they are adequate to achieve compliance with water quality requirements."*

Item 3 states that Federal agencies will review policies and processes that may affect land and water uses and water quality. The following narrative states that Federal agencies will consider revising these policies or processes, as appropriate, to ensure they address various factors. We recommend stronger language to ensure that policies or processes are revised as appropriate.

These conclude our comments on the subject proposed Policy. We appreciate the opportunity to review the document. If you have any questions regarding our comments, please contact Dan Ashe, Assistant Director for Refuges and Wildlife, at 202-208-5333, or Mary Anne Young in the Division of Refuges, at 703-358-2399.

Sincerely,

DIRECTOR