



December 14, 2009

Gaylon Lee
Forest Activities Program Manager
Division of Water Quality
State Water Resources Control Board
1001 I Street
P.O. Box 2231
Sacramento, CA 95812

**Re: Development of New Water Quality Management Plan for
National Forest Lands in California**

Dear Mr. Lee:

This letter transmits the comments of Trout Unlimited and the California Council of Trout Unlimited on development of a new Water Quality Management Plan (WQMP) to address control of nonpoint source pollution generated by various activities on National Forest System (FS) lands in California.

Trout Unlimited is America's largest and oldest sportsmen's group dedicated to conservation of coldwater game fish. TU's mission is to conserve, protect and restore trout and salmon fisheries and their watersheds in North America. TU has over 140,000 members nation-wide, with some 10,000 of our members residing in California. National forest lands provide some of the best habitat for cold water fish and game animals, and some of the best fishing and hunting opportunities, in this state.

TU's members enjoy fishing and hunting on FS lands in California. In addition, several of the TU chapters in this state work cooperatively with the US Forest Service to recover ESA-listed native salmonid species and to restore and improve habitat for trout and salmon, and TU staff are working closely with FS staff around the state to reduce and mitigate adverse affects on fish and game from nonpoint source (NPS) pollution.

The proposed action will affect waters and lands that provide important habitat for aquatic and terrestrial game species, as well as sporting opportunities. In our experience, the Forest Service, while well intentioned, does not consistently implement its own Best Management Practices (BMPs), with the consequence that many waters and riparian areas on and flowing from national forest lands suffer from degraded water quality due to sediment deposition, rising water temperatures, pollution from pathogens or chemicals associated with activities on national forest lands such as livestock grazing and off-road vehicle use, and other factors. In fact, some actions undertaken by the agency (such as the Travel Management process) have the effect of offsetting or counteracting what beneficial effects for water quality the Forest Service may have achieved through BMPs.

TU strongly supports revisions to the WQMP and enforcement program that will provide specific conditions and permit terms, including mandatory monitoring and reporting. However, the shortcomings of the present regulatory structure can best be remedied by augmenting support for the regional boards

and their work. Therefore we do not think the proposed change that would shift regulation of the water quality impacts of national forest management from the Regional Water Quality Control Boards to the State Board is necessary or desirable. While an update of the regulation of water quality for national forest lands is needed, the proposed change to a single statewide regulatory approach is not likely to achieve better management of California's water resources and water quality, nor, we submit, is it consistent with the Water Board's exercise of its statutory authority and responsibility to protect California's water.

State Water Board staff have stated they intend to "accomplish water pollution control and environmental restoration in the most efficient and effective manner." California's national forests cover an enormous and varied landscape, with diverse geology, ecology, types of human use and interactions with local communities. In our experience, the most efficient and effective water pollution controls and restoration measures are those adapted to the unique conditions of specific landscapes. The Regional Water Boards are better suited to work with the Forest Service in protecting water quality in each basin because of the greater familiarity of Regional Boards and their staffs with site-specific resources and issues.

Similarly, we are not convinced that "minimiz(ing) duplication of effort and unnecessary regulatory burdens" will be realized by shifting regulatory authority and enforcement from the Regional Water Boards to the SWRCB will provide the intended benefits. The Forest Service says the proposed change will increase "certainty," but the enforcement record for water quality standards on national forest lands suggests that the Forest Service has not been encumbered or hampered by very many enforcement efforts to date. Regional regulation has not been an impediment to the Forest Service's compliance, or lack of compliance, with California's water quality standards in the past.

We are also concerned that a statewide prioritization of recovery and restoration needs and funds will undermine recovery and restoration efforts in many areas of the state and undermine ongoing and planned restoration in many areas. Many streams and rivers on our national forests have been seriously degraded by impacts of land uses authorized by the Forest Service, as well as infrastructure developed to facilitate these uses, most notably the network of roads present on all national forests which is now so vast and in such poor condition that the agency is in a constant state of triage trying to maintain even the most necessary and popular motorized routes.

Since it is highly unlikely that the Forest Service will receive sufficient appropriations over the next decade to decommission or repair decaying roads and failing culverts, and since the Forest Service admits it does not have the operational resources to maintain its travel systems sufficiently, it seems to us that to fully honor the State's commitment to serving as the Forest Service's "partner" in managing for water quality, the State Water Board should exercise greater oversight of the agency's efforts, not less, if only to help the Forest Service prioritize its actions.

The Forest Service's well-documented difficulty in implementing its own Best BMPs for water resources management, and the equally well-documented ongoing degradation of water quality on national forest lands, similarly suggest the need for more rigorous enforcement of water quality standards rather than for establishment of a regulatory regime that is more convenient for the regulated entity. Moreover, we believe that existing BMPs need to be upgraded, and new BMPs executed, to better enable the Forest Service to uphold its water resource protection obligations.

Because fulfillment of BMPs is subject to the Forest Service's discretion, it is inappropriate to rely exclusively on the agency's BMPs to protect

water quality on national forest lands in California. Therefore under the new WQMP the Water Board should retain the authority to require the Forest Service to respond to requests for information from SWRCB staff as well as require the agency meet specific reporting and monitoring deadlines.

We understand the Forest Service has taken the position that the proposed action would not constitute an "action" under the National Environmental Policy Act (NEPA), and could be adequately analyzed and mitigated under the California Environmental Quality Act (CEQA) with a Mitigated Negative Declaration. We disagree. A programmatic change which could increase water quality impacts on all of the 18 national forests in the Forest Service's Region V clearly requires full analysis, including due consideration of reasonable alternatives.

In sum, we recommend the following:

The minimum requirements for any programmatic waivers/permits should be based on the following:

(1) All existing state requirements (waste discharge prohibitions, narrative and numeric objectives, anti-degradation objectives and policies, and implementation policies) must remain in effect and continue to apply to all FS discharges. Forest Service BMPs are not the standards for water quality, and the agency has not proven it can or will implement BMPs sufficiently to protect water quality.

(2) There should be better monitoring and reporting requirements for all Forest Service actions and authorized activities.

(3) There need to be clear and specific requirements for corrective action when water quality problems are identified, and these requirements need to be enforceable under the WQMP.

(4) The Regional Water Boards need to retain authority to require a Report of Waste Discharge for any FS activity. Specifically, Regional Water Board staff should have authority to remove any FS activity from coverage under any state waiver/permit whenever a potential threat exists and the activity should be considered for a project-specific waiver/permit.

Lastly, we submit that some activities allowed or undertaken by the Forest Service on national forest lands in California are presently causing such significant impacts to water quality that they should be addressed specifically and immediately. Primary among these are the tens of thousands of miles of poorly-maintained roads and tracks on national forest lands that are discharging tons of sediment and chemicals leaked from motor vehicles into meadows, streams, and lakes. While the Forest Service concludes its Travel Management process, and begins to accomplish the determination of the minimum travel system for each national forest required by Subpart A of the Travel Management Rule, the State Water Board should assist the agency by developing new or clearer standards for monitoring and reporting on water quality for this particular nonpoint source of pollution.

Thank you for your commitment to and efforts toward protecting California's water resources.

Respectfully submitted,



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