

**SALMON RIVER  
MEMORANDUM OF UNDERSTANDING  
BETWEEN  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
NORTH COAST REGION  
AND  
U.S. FOREST SERVICE  
KLAMATH AND SIX RIVERS NATIONAL FORESTS  
PACIFIC SOUTHWEST REGION**

NCRWQC  
SEP 08 2009

<input type="checkbox"/> EO	<input type="checkbox"/> WMgmt	<input type="checkbox"/> Adm
<input type="checkbox"/> AEO	<input type="checkbox"/> Timber	<input type="checkbox"/> Lega
<input type="checkbox"/> Reg/NPS	<input type="checkbox"/> Cleanups	<input type="checkbox"/> Date

This MEMORANDUM OF UNDERSTANDING is hereby made and entered into by and between the California Regional Water Quality Control Board, North Coast Region, hereinafter referred to as the Regional Water Board, and U.S. Forest Service, Klamath and Six Rivers National Forest, hereinafter referred to as the Forest Service, collectively referred to as "the parties".

**A. PURPOSE:**

The Salmon River Total Maximum Daily Load (TMDL) for Temperature and Implementation Plan (North Coast Regional Water Quality Control Board Resolution R1-2005-0058, adopted June 22, 2005) requires that the parties develop a Memorandum of Understanding (MOU), "...that will identify those elements of existing Forest Service plans and commitments that will support achieving TMDL loading capacities and would be expected to lead to meeting Basin Plan water quality standards for temperature." This MOU describes the specific implementation actions that the Forest Service will take to achieve the TMDLs and meet the temperature-related water quality standards on National Forest System (NFS) lands within the Salmon River watershed.

**B. FINDINGS:**

The Regional Water Board and the US Environmental Protection Agency have determined that beneficial uses in the Salmon River, including coldwater salmonid fisheries, are impaired due to elevated water temperatures. More than ninety-eight percent of the Salmon River watershed is managed by the Forest Service, more than seventy percent of the watershed is designated as Wilderness Area, Late Successional Reserve, or other management constrained allocation. The Salmon River has been identified as a high priority (key) watershed by the Northwest Forest Plan, the Klamath River Basin Assessment, and as a component of the Federal Wild and Scenic River system.

Regional Water Board Resolution No. R1-2005-0058 specifies, "The goal of the MOU is to restore the Salmon River's impaired temperature to levels that will protect cold water fisheries, support delisting under 303(d) when deemed recovered, and restore and maintain riparian corridors to achieve the TMDL,

which is adjusted potential effective shade." According to the implementation strategy contained in Section 5 of the TMDL, "It is expected that actions that the Forest Service has already identified, and to which the Forest Service is currently committed will achieve the improvements required for attainment of this TMDL." Management activities will be conducted consistent with the *Klamath National Forest Land and Resource Management Plan (LRMP)*, dated 1995 (including all amendments) and the *Salmon River Subbasin Restoration Strategy: Steps to Recovery and Conservation of Aquatic Resources*, dated September 25, 2002.

The Regional Water Board and the Forest Service have shared interests in improving conditions for beneficial uses in the Salmon River, and attaining compliance with the Clean Water Act. This MOU provides a framework to coordinate and accomplish mutually beneficial projects to meet the requirements of the Salmon River temperature total maximum daily loads.

### C. FOREST SERVICE SHALL:

1. Conduct all management activities in a manner consistent with the current Klamath National Forest LRMP, cited in part B of this MOU. Attainment of the Aquatic Conservation Strategy and Riparian Reserve management are key aspects of the LRMP in relation to restoring beneficial uses.
2. Continue implementation of the Salmon River Subbasin Restoration Strategy, cited in part B of this MOU. This strategy focuses on restoring the biological, geologic, and hydrologic processes that impact the quality of aquatic habitat within the Salmon River watershed.
3. Update the Action Plan contained in the Salmon River Subbasin Restoration Strategy by October 1, 2010. The updated Action Plan will describe restoration efforts initiated and accomplished between 2003 and 2008 and those proposed in the two 10-year periods between 2009 and 2028.
4. Update the Action Plan to contain a description of measures taken to address the risk of elevated stream temperatures caused by management-related debris flows in the Salmon River subbasin. Road remediation efforts will prioritize crossings that are at high risk for triggering debris flows which could affect riparian vegetation and stream shading.
5. Update the Action Plan to contain a description of efforts to inventory Riparian Reserves and riparian areas in grazing allotments for revegetation opportunities in the Salmon River subbasin.
6. Update the Action Plan to include an evaluation of mine tailing pile riparian area restoration potential and priorities.
7. Develop a Temperature and Shade Monitoring Program as a part of the Klamath National Forest (KNF) Water Quality Monitoring Plan (Forest

Service 2009<sup>1</sup>) by November 1, 2009, to ensure that the Riparian Reserve buffer widths are effective at preventing or minimizing effects on natural shade. The Temperature and Shade Monitoring Program shall also evaluate near stream riparian areas in grazing allotments for potential impacts to natural shade. The monitoring program will include filling data gaps identified during the TMDL process. Monitoring will include areas without vegetation such as mined areas, areas impacted by fires, and areas thought to have accruing or hyporheic flows. Adaptive management will be conducted if water quality problems are observed. The monitoring results will be reported yearly as a part of an Annual Report. It is the intent that the Monitoring Plan shall also meet the requirements of Regional Water Board regulatory actions on NFS lands, including, but not limited to, the Regional Water Board's Forest Service Timber Waiver condition for monitoring streams when timber projects are implemented in watersheds over the threshold of concern, the proposed Regional Water Board Waiver for all Forest Service nonpoint source activities, and other approaches developed specifically for TMDL implementation plans. Data generated through implementation of the KNF Water Quality Monitoring Plan will also be used to assess whether or not a stream is achieving water quality standards and, through the use of reference conditions and other lines of evidence, as appropriate, is no longer impaired under section 303(d) of the Clean Water Act. The KNF Water Quality Monitoring Plan is subject to approval by the Regional Water Board Executive Officer before becoming effective.

8. Conduct monitoring and annual reporting as described in the KNF Water Quality Monitoring Plan (Forest Service 2009).
9. By March 31, 2011, develop revised grazing management practices should existing measures be inadequate or ineffective in protecting riparian areas from the loss of stream shading, subject to the approval of the Regional Water Board's Executive Officer.

#### **D. REGIONAL WATER BOARD SHALL:**

1. Assist the Forest Service and partners (individuals, groups and agencies) in securing funding to protect, restore, and enhance riparian function in the Salmon River watershed.
2. Work with the Forest Service to prioritize proposed projects among all 7<sup>th</sup> field watersheds in the Klamath, Scott, and Shasta River watersheds, as well as in the Salmon River watershed.
3. Review, reassess, and possibly revise the Salmon River TMDL Implementation Plan. Reassessment is likely to occur every three years during the Basin Plan Triennial Review process.

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<sup>1</sup> US Forest Service. 2009. Klamath National Forest Water Quality Monitoring Plan.

4. Consider modifications to the Forest Service's approach to restoring the beneficial uses of the Salmon River based on new information, as appropriate.
5. Utilize data and analyses developed through implementation of the KNF Water Quality Monitoring Plan (item C.7) in assessing compliance with water quality standards and to develop lines of evidence for section 303(d) listing or delisting decisions pursuant to the Clean Water Act and State Water Board guidelines.

**E. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:**

1. ITERATIVE PROCESS. The TMDL implementation will be an iterative process that uses new information to adjust priorities for action. If the Regional Board revises the TMDL implementation plan, the parties shall meet and determine whether revision of this MOU is necessary to meet the requirements of the revised implementation plan.
2. COORDINATION. The Forest Service and Regional Water Board will coordinate frequently during TMDL implementation (quarterly during the first 2 years, annually thereafter).
3. RELATION TO OTHER EFFORTS. The Forest Service and State Water Resources Control Board (State Water Board) are exploring revisions to the 1981 Management Agency Agreement, specifically with regard to compliance with the state Nonpoint Source Policy of 2004 (NPS Policy). The NPS Policy requires coverage by a water quality prohibition, waste discharge requirements (WDR), or waiver of waste discharge requirements (Waiver). The State Water Board adopted Resolution No. 2009-0064 on August 4, 2009 which calls for development of a statewide regulatory approach for covering all Forest Service nonpoint source activities, with possible exceptions for existing TMDL Waivers. On a regional level, the existing Regional Water Board timber waiver is set to expire in December 2009. Regional Water Board staff is working to develop a conditional waiver to address Forest Service nonpoint source activities region-wide, including timber harvest activities. The Regional Water Board intends that all or portions of this new conditional waiver be incorporated into the statewide regulatory approach developed by the State Water Board.
4. FREEDOM OF INFORMATION ACT (FOIA). Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).
5. PARTICIPATION IN SIMILAR ACTIVITIES. This instrument in no way restricts the Forest Service or the Cooperator(s) from participating in

similar activities with other public or private agencies, organizations, and individuals.

6. **COMMENCEMENT/EXPIRATION/TERMINATION.** This MOU takes effect upon the signatures of both the Forest Service and Regional Water Board and shall remain in effect for 5 years from the date of execution. This MOU may be extended or amended upon written request of either the Forest Service or Regional Water Board and the subsequent written concurrence of the other(s). Either the Forest Service or Regional Water Board may terminate this MOU with a 60-day written notice to the other(s).
7. **RESPONSIBILITIES OF PARTIES.** The Forest Service and Regional Water Board and their respective agencies and office will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.
8. **PRINCIPAL CONTACTS.** The principal contacts for this instrument are:

***Forest Service Project Contact***

Greg Laurie  
Hydrologist  
Klamath National Forest  
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***Cooperator Project Contact***

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North Coast Regional Water Board  
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[trwilliams@waterboards.ca.gov](mailto:trwilliams@waterboards.ca.gov)

***Forest Service Administrative Contact***

Janet Boomgarden  
Grants and Agreements Specialist  
Six Rivers and Klamath National Forests  
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E-Mail: [jboomgarden@fs.fed.us](mailto:jboomgarden@fs.fed.us)

***Cooperator Administrative Contact***

Robert Klamt  
Chief, Timber Harvest Division  
North Coast Regional Water Board  
Phone: (707) 576-2693  
FAX: (707) 523-0135  
E-Mail: [rklamt@waterboards.ca.gov](mailto:rklamt@waterboards.ca.gov)

9. **NON-FUND OBLIGATING DOCUMENT.** In accordance with the Antideficiency Act (31 U.S.C. § 1341(a)(1)(A)), nothing in this MOU shall obligate either the Forest Service or Regional Water Board to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of the Forest Service and Regional Water Board will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized

by appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.

10. ESTABLISHMENT OF RESPONSIBILITY. This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.
11. STATE RETENTION OF RESPONSIBLE AUTHORITY. Nothing herein shall be construed in any way as limiting the authority of the State Water Board or the Regional Water Board in carrying out their legal responsibilities for management, regulation, or enforcement of water quality. The Regional Water Board, by entering into this MOU, does not waive its authority to take any enforcement actions for illegal discharges.
12. FOREST SERVICE RETENTION OF RESPONSIBLE AUTHORITY. Nothing herein shall be construed as limiting or affecting in any way the legal authority of the Forest Service in connection with the proper administration and protection of National Forest System lands in accordance with federal laws and regulations.
13. AUTHORIZED REPRESENTATIVES. By signature below, the parties certify that the individuals identified in this MOU as representatives of their respective agencies are authorized to act in their respective areas for matters related to this MOU.
14. COORDINATION. The provisions of this MOU are intended solely to ensure interagency coordination. This MOU is not intended to, and does not create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

THE PARTIES HERETO have executed this instrument.

**CALIFORNIA REGIONAL WATER  
QUALITY CONTROL BOARD  
NORTH COAST REGION**

**U.S. FOREST SERVICE  
PACIFIC SOUTHWEST REGION  
KLAMATH NATIONAL FOREST**

Catherine Kuhlman 9.15.09  
**CATHERINE KUHLMAN** Date  
Executive Officer

Patricia A. Grantham 9.2.09  
**PATRICIA A. GRANTHAM** Date  
Forest Supervisor

**SIX RIVERS NATIONAL FOREST**

Tyrone Kelley Aug. 28, 2009  
**TYRONE KELLEY** Date  
Forest Supervisor

The authority and format of this instrument has been reviewed and approved for signature.

Janet Boomgarden  
**Janet Boomgarden**  
Agreements Coordinator  
Six Rivers & Klamath National Forests

8/27/09  
Date