



Quartz Valley Indian Reservation

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Gaylon Lee
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State Water Resources Control Board
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**RE: Comments on USFS Water Quality Management Plan Objectives and
Increasing the Transparency of the North Coast Water Quality Control
Board Waiver**

Gaylon,

Thank you for this opportunity to comment on the revision to the US Forest Service's existing Water Quality Management Plan (WQMP) for National Forest Lands. We also would like to thank you for this opportunity to offer comments on how to increase the transparency of waivers developed to enforce the WQMP by the State Water Resources Control Board. Aboriginal tribal lands encompass the state of California and current management practices of USFS are negatively influencing cultural resources tribal people rely on for subsistence. Certain Tribes even hold Treatment as a State (TAS) status to regulate and control water quality on tribal land, which brings about the question of how this process intends to address those areas.

The comments are in two sections, first are the WQMP objectives that we have revised and the second section's comments refer to increasing transparency of the waiver and its processes.

Section 1: WQMP Objectives Revised

Objectives of This WQMP and Handbook

Performance Standards

1. To ensure that, on NFS lands in California, the quality and beneficial uses of water are maintained where they are in good condition, consistent with the federal and State anti-degradation/non-degradation policies, and the principles of conservation biology.
2. To ensure that, on NFS lands in California, the quality and beneficial uses of water are protected from further degradation where they are declining toward being listed as water quality limited pursuant to Clean Water Act Section 303 (d).
3. To make substantial progress toward eventual delisting of water body segments that have been listed pursuant to Clean Water Act Section 303(d) and that are located on, or receiving contributing pollutant discharges from, NFS lands.
4. To remediate legacy sources of pollution on NFS lands in California.
5. To ensure compliance with Federal and State water quality goals and legal requirements (with focus on the Clean Water Act and the Porter-Cologne Act) in the most efficient manner.
6. To ensure compliance with the SWRCB NPS Policy's Five Elements of Implementation and Enforcement.
7. To ensure compliance with Regional Water Quality Control Board Basin plans and with any issued Waiver permits.

Administrative Processes

1. To install specific planning procedures, contract/lease provisions and administrative processes to ensure the enforcement of WQMP performance standards.
2. To consolidate direction applicable to BMP use for NPS pollution control on NFS lands in California for the maintenance, protection, and recovery of beneficial uses of water.
3. To establish a uniform process of BMP implementation that will meet the intent of: 1) the Federal and State water quality laws, executive orders, and the United States Department of Agriculture (USDA) directives, and 2) Water Board water quality standards, plans and policies that are applicable to activities on NFS lands in California.
4. To produce proven effective BMPs that can be applied specifically at the beginning of each project and reviewed both during project operation and

at project completion to determine corrections or consequences of inadequate implementation.

5. To determine management practice effectiveness using statewide programmatic monitoring, watershed-specific monitoring and project-specific monitoring programs. Monitoring of installation, performance, effectiveness, and completion are to be evaluated for each project with follow-up on corrective actions or failure consequences.
6. To ensure that this WQMP and the implementation thereof are effective in achieving these objectives by installing a science-based Adaptive Management program that meets the seven principles of adaptive management including transparent public involvement, is in compliance with NPS policy, and will be used to learn and make better informed decisions.
7. To enhance Forest Service performance as a water quality management agency, and increase and improve its responsibility, transparency and accountability in its relationships with the Water Boards and the public at every step of the process.

Section 2 Increasing Transparency of the Waiver

Excerpts from Robert Klamt email on March 30, 2010:

”Violations of the waiver come in two basic forms: violations of actual waiver conditions and water quality violations of Basin Plan standards. Once a violation is noted, then our enforcement strategy kicks in. As discussed at the meeting, we cannot fine the USFS unless we have specific language in a time schedule order. However, we can take other actions, and can fine individual contractors or permittees.

We have a progressive enforcement strategy that allows us to apply different levels of enforcement to fit the situation. For instance, it may be appropriate to address a minor violation, such as a violation of a waiver condition that does not result in water quality problems, with a phone call and/or a staff enforcement letter. For more egregious violations, or for a violation that is repetitive, we would issue a Notice of Violation and can follow that with a request for information regarding the situation and a plan to alleviate the problem and prevent future occurrences. Or we can issue a Cleanup and Abatement Order requiring the pollution be cleaned up and further pollution abated on a time schedule. We also can add in language to an order that addresses violations of

the order with monetary remedies (fines).”

Based on this statement, which references the state enforcement policy, in order to increase the transparency of the waiver and enforcement actions taken; Tribes would like to see documentation of the following easily accessible:

- The documentation of the violation submitted to SWB and/or USFS
- Staff enforcement letters (phone calls are not transparent)
- Notice's of Violation submitted
- Cleanup and Abatement Orders

And please add language to the Cleanup and Abatement Order specific to the monetary remedies as mentioned in Mr. Klamt's email. This adds an element of consequences we currently do not see. Without consequences USFS will not act in a proactive way to avoid pollution, USFS will simply wait until a violation is filed and deal with it after the pollution has already occurred. Private timber entities work ahead of time to avoid violations because they know the consequences will cost them.

Sincerely,

Crystal Bowman, Environmental Director
Quartz Valley Indian Reservation