



Central Sierra Environmental Resource Center

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From John Buckley, executive director
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To Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
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Comments in Response to the Proposed Discontinuation of Discussions Regarding a Statewide Approach to Livestock Impacts on Water Quality and Water Resources

To the members of the Board:

In 2005 and 2006, I participated on behalf of our Center in what the State Water Board labeled as the **Rangeland Water Quality Regulatory Program**. That planning effort focused on how rangeland management could be regulated or given incentives by the State to reduce water quality contamination by livestock. Gaylon Lee led that process which lasted for nearly two years, but then **suddenly ended without any outcome** - reportedly due to political pressure on Governor Schwarzenegger by agricultural interests.

Then in 2009 the State Water Board initiated a Stakeholders Committee and began interacting with the U.S. Forest Service and diverse public interests to deal with an update of the **Water Quality Management Plan for all national forest lands in California**. On behalf of our Center, I once again participated as a lead environmental community representative in the process, serving for two years on the Stakeholders Committee, including serving on committees.

As part of that Water Quality Plan and Waiver process, there were lengthy and detailed discussions of livestock grazing impacts on water quality, stream banks, riparian habitat, and aquatic species on the millions of acres of national forest lands in California that are managed by the U.S. Forest Service. Gaylon Lee again led that planning effort.

Out of that process, despite strong opposition from the conservation community, Water Board staff followed the lead of the Forest Service participants to basically roll over the status quo management direction of the Forest Service into the proposed Waiver, adding some stronger sounding BMPs that were still non-measurable and that contained no clear consequences for violations. **That Waiver and Water Quality Management Plan process, which had a key focus on federal agency livestock management and livestock impacts to water quality and stream resources, came to a close with a vote before this Board in December 2011**, when the Board voted not to approve the statewide waiver for U.S. Forest Service activities on its federal lands.

Then last year the State Water Board launched a third major planning assessment of livestock grazing associated with water quality impacts. The GRAP process was initiated with a stated intent to assess the impacts caused by livestock on water quality and water resources and to collaboratively determine with diverse interests how a statewide grazing approach could reduce those negative impacts on water.

And now, once again, after holding extensive participant meetings and inviting public comments to move the GRAP process forward, the State Water Board is choosing to punt instead of developing a meaningful and balanced regulatory program to deal with livestock contamination issues. Rather than moving forward to establish realistic, necessary regulations to reduce water quality impacts caused by livestock within the State, **the Water Board is apparently again caving in to political pressure. The State Water Board proposes to hand the matter back to the same Regional Water Boards that have failed to correct livestock-generated water quality problems for decades.**

To put the above into perspective, 10 years ago the State Water Board staff ambitiously attempted to initiate a statewide plan to reduce the significant impacts to water quality and water resources caused by livestock activity on both private and public lands in California. After one failure, starting 6 years ago, the State Water Board staff attempted to at least deal with U.S. Forest Service non-point source contamination and water resource degradation, in particular, livestock impacts. That resulted in a second failed process. Then last year the Board launched a third statewide regulatory analysis tied to livestock impacts to water. And now, the Board's proposal is to discontinue any further statewide consideration of rangeland impacts on water quality... to basically give up for a third time.

CSERC strongly opposes the discontinuation of discussions by the State Water Board of a statewide approach to addressing water quality impacts from livestock grazing. We characterize the proposed discontinuation as simply caving in to political pressure and a weak choice to leave the matter of livestock contamination of water in the hands of regional water boards that have proven incapable of addressing or have proven to be unwilling to tackle such a difficult political issue.

WEAK BMPs WILL NOT MAGICALLY RESOLVE LIVESTOCK CONTAMINATION ISSUES

Regional Water Boards have limited staffing capacity, limited resources, and limited political clout. The proposed resolution to discontinue discussion regarding a statewide grazing

approach would direct Regional Water Boards to consider adopting BMPs that “are supported by current information.”

What is most important and relevant to this question is that **the Best Management Practices (BMP’s) that are currently in place for range management are the same management practices that have resulted in fecal coliform contamination occurring at levels that exceed Basin Plan standards.** Under the regulatory oversight of Regional Water Boards, those same BMPs are the management prescriptions that have resulted in countless stream banks being sloughed, chiseled, and denuded as cows concentrate grazing in riparian areas and wet meadows. Those same BMPs have resulted in meadows being heavily over-grazed, streams becoming wider and shallower from decades of stream bank crumbling, and riparian vegetation being denuded in areas where large numbers of cows concentrate. Across the foothills, coastal areas, and the Central Valley, ongoing regulatory requirements do little to curtail contamination of water and degradation of riparian vegetation and stream bank stability due to livestock impacts.

Giving back the full authority for regulatory oversight to Regional Water Boards will inarguably result in the same legal violations of the Clean Water Act that are currently taking place on lands grazed by livestock across a large percentage of lands in California. If they were going to take corrective actions, they would have done so. To do the same thing and expect a different outcome is illogical.

WHAT DOES OUR CENTER SUGGEST AS A SOLUTION, RATHER THAN THE DISCONTINUATION OF DISCUSSIONS OF A STATEWIDE APPROACH TO GRAZING-WATER ISSUES?

CSERC respectfully opposes leaving livestock-water impact regulatory oversight to the Regional Boards. There simply isn’t any realistic potential for significant change at that level. But our staff at CSERC is politically astute enough to recognize that **the current draft Resolution would not be put forward - proposing to jettison the livestock-water quality regulatory approach at the state level - if that was not already a likely, realistic outcome.** If the State Water Board is either being pressured into declining further regulatory involvement or is sincerely convinced that regional policies for livestock-water issues make more sense, then any public input at this stage is not likely to change the Board’s position.

Within that unfortunate planning change, with the State Board poised to hand off full regulatory authority to the Regional Water Boards, there is still a significant comment that our Center urges. **CSERC strongly advocates for the State Water Board to separate out private land livestock grazing regulatory oversight from livestock grazing regulatory oversight on federal lands within California.**

Rather than adopting the Resolution as now drafted, CSERC urges the following minor, but pivotal, wording changes to item 1: (see highlighted blue text below)

THEREFORE BE IT RESOLVED THAT:

The State Water Board therefore directs the following:

1. Discussions regarding a statewide approach to addressing the water quality impacts from livestock grazing **on private lands** are discontinued. **Discussions will continue with federal land managers and diverse stakeholder interests regarding a statewide approach to addressing water quality impacts from livestock grazing on federal lands.**

2. The Regional Water Boards should work collaboratively with individual property owners, livestock grazing operators, and other interested stakeholders to determine which actions, including regulatory actions and effective non-regulatory efforts for BMP implementation, are best suited to protect water quality and the beneficial uses of waters from pollution.

WHAT IS THE RATIONALE FOR CONTINUING A STATEWIDE APPROACH TO ADDRESSING WATER QUALITY IMPACTS FROM LIVESTOCK GRAZING ON FEDERAL LANDS AT THIS TIME?

As the GRAP process has initially verified, **there are varying levels of water quality impacts from livestock occurring on federal lands in California. The degree of contamination of water quality is not systematically monitored, measured, nor communicated by federal land managers. It is extremely rare for ANY water quality monitoring for pathogenic bacteria to be done on federal land** in response to the concern about livestock contamination, and where that sampling has been done in an extremely minimal fashion, it has not followed State Water Board protocols nor has it been done in a strategic approach most likely to detect violations.

The impact of grazing on water quality is of high concern to the environmental community and to certain Native American tribes. In particular, there are concerns tied to the fact that large numbers of recreational visitors to national forest lands drink, wash, or otherwise expose themselves to contact with fecal coliform in forest streams on national forest lands.

It is an issue of environmental justice that economically disadvantaged visitors to the national forest are most likely to not have possession of expensive water filters or not be aware of water contamination risks when they visit national forest lands. Given that literally millions of visitors to national forest lands each year are exposed to varying levels of pathogenic bacteria, it is legally appropriate for the State Water Board to pursue strategies with its sister federal agencies to significantly reduce or to eliminate the health risks posed by such contamination.

Furthermore, there is proven, fully acknowledged impacts from livestock on federal lands in California. Livestock grazing crumbles stream banks, sloughs or chisels stream or lake habitat structures, denudes or degrades riparian vegetative cover, diminishes critical habitat for at-risk amphibian species, and directly results in increased water temperatures as crumbled and sloughed stream banks create wider, shallower streams with reduced shading.

The direct contamination of water by cattle wastes and the direct negative impacts on stream banks, riparian habitat, and shade-generating vegetative cover all combine to significantly affect water quality across hundreds of thousands of acres of national forest and BLM lands in California. Due to the federal ownership and management of these lands at a statewide or broader level, it is clearly most appropriate for the State Water Board to be the entity to

engage in a statewide approach to addressing water equality impacts from livestock on these federal lands.

FEDERAL LANDS SHARE SIGNIFICANT SIMILARITIES IN MANAGEMENT DIRECTION, SEASONAL WEATHER PATTERNS, RECREATIONAL VISITS, AND WILDLIFE HABITAT IMPORTANCE

Given that range management direction primarily is based upon Regional management policies and direction for both BLM and U.S. Forest Service lands within California, it is highly appropriate for there to be a statewide regulatory approach to water quality impacts from livestock grazing on federal lands.

For example, with the U.S. Forest Service, within Region 5, the various individual national forests have varying topographic features and differing levels of public use, but national forests within California share general vegetative conditions, seasonal weather patterns, an overlap of common wildlife species, and many similar plant species that can be found on other neighboring forests or in similar forests within each region of the state.

On Forest Service lands, the Allotment Management Plan process is the NEPA-based analysis that provides the basic assessment of livestock-generated resource impacts and mitigation measures necessary to reduce or eliminate those impacts. More than 200 allotments within the Region have no such NEPA-based AMP analysis. Those same allotments have no Annual Operating Instructions, a second USFS-identified management tool intended to respond to changing conditions in order to protect resources.

Nearly two decades after the Rescissions Act, hundreds of allotments within California still do not have Allotment Management Plans tied to NEPA analysis.

Further, it is pivotal for the State Water Board to understand that the Forest Service does not have trained personnel actually implementing even a minimal level of forage utilization monitoring in all grazing allotments within the Region each year. On the contrary, due to a lack of funding and personnel, in some years the Forest Service staff actually measures considerably less than 40% of grazed allotments. There is no field assessment documentation or report done by USFS personnel for most allotments on an annual basis. Instead, the Forest Service actually relies upon the grazing permittees themselves to “self-report” whether or not their cows overgrazed the very few sites that are even measured for forage utilization. This is equivalent to having law enforcement asking drivers to report themselves for violations on those roads where no law enforcement monitoring of the speed limit is done. Permittees often are poorly trained or untrained in utilization protocols and applying the correct ungrazed and grazed stubble height to the proper height-weight graph to determine the statistical result. Yet the Forest Service allows permittees to self-monitor their allotments.

The lack of “agency monitoring” matters. Utilization monitoring is often the only monitoring done by agency personnel, so when even that is not done, there is no meaningful monitoring at all. In many allotments, as few as three or four “key meadow” transects are intended to represent livestock utilization levels for an allotment that may be 15,000 acres or larger. Yet based upon whether or not those few meadow sites were measured as “over-grazed”, the

Forest Service or BLM may then make unsupported claims that livestock thus did not degrade watershed resource values, water quality, or riparian vegetation in the vast allotment.

Even where monitoring of some sort is done, the Forest Service does not do annual monitoring in the vast majority of actively grazed livestock allotments to assess livestock impacts to stream bank stability, or to do green line/riparian monitoring, or to assess a variety of other impacts that affect water quality.

The need is high for a statewide strategic approach to addressing water quality impacts from livestock on federal lands.

THE STATE WATER BOARD SHOULD APPLY STAFF TIME AND RESOURCES WHERE THE BOARD CAN MAKE THE MOST SIGNIFICANT BANG FOR THE BUCK – GRAZING ON FEDERAL LAND

Our Center would prefer to see the current draft Resolution (to discontinue a statewide approach) rejected by the Water Board and instead to have discussions continue regarding a statewide approach to livestock grazing and water quality all across the State.

However, if that is not realistic, then CSERC strongly urges the Water Board to modify the proposed Resolution language and to separate out federal land livestock grazing so that State Water Board discussions will continue concerning a statewide approach to livestock grazing and water quality on federal lands.

The federal lands are overwhelmingly the headwaters streams and tributary streams that have the potential for the highest water quality, the greatest benefit to downstream users, and the highest value for wildlife, recreation, and aquatic species. Our Center strongly asks the Water Board staff to support continuing forward with a statewide approach to water quality impacts from livestock grazing on federal lands in California.

A handwritten signature in black ink that reads "John Buckley". The signature is written in a cursive, flowing style with a large loop at the end of the last name.

John Buckley, executive director