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Southern Timber Council

• Advocating long-term multiple use of public and private Southern forest resources

April 14, 2000

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RE: Comments on Unified Federal Policy for Ensuring a Watershed Approach to Federal land and Resource Management published in the Federal Register of February 22, 2000. Comments due by April 24, 2000.

Background on Proposed Policy

According to the Federal Register notice, the Unified Federal Policy on Watershed Management has the following goals: (1) Use a consistent and scientific approach to managing lands, protecting, and restoring watersheds; (2) Identifying specific watersheds in which to focus budgets and other resources; (3) Use the results of watershed assessments to guide planning and management activities; (4) Work closely with States, Tribes, local governments and stakeholders to implement this policy; (5) Meet Clean Water Act responsibilities to adhere to Federal, State, Tribal, interstate and local water quality requirements to the same extent as non-governmental entities; and (6) Take steps to ensure that Federal land and resource management actions are consistent with Federal, State, Tribal, and where appropriate, local government water quality management programs.

This proposal would be limited to Federal lands and resources. The proposal would not apply to Tribal, State, or private lands. However, according to the Federal Register, "...this policy is intended to foster more effective participation opportunities for Tribes, States, private landowners, and other interested stakeholders..."

The Federal Agencies who will sign this policy are: Environmental Protection Agency; Department of the Interior (for Bureau of Land Management, National Park Service, Fish and Wildlife Service, Office of Surface Mining, and Bureau of Reclamation); Department of Agriculture (for the Forest Service); Department of Commerce (for the National Marine Fisheries Service); Department of Defense; Department of Energy; the Tennessee Valley Authority; and the Army Corps of Engineers.

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Southern Timber Council Comments

The Southern Timber Council hereby provides the following comments on the Departments of Interior and Agriculture Unified Federal Policy on Watershed Management.

- **Percent of Watersheds in South**

In the Southern Region, the amount of watersheds in federal ownership are small in number and it is unclear how this policy will effect the Southern Watersheds when the notice indicates that the policy is applicable to Federal lands only. It is important to clarify that in the South, the number of watersheds which will be effected by this policy are small in number and are those watersheds which lie in National Forest boundaries, National Park Service boundaries and possibly, U.S. Fish and Wildlife Service boundaries. It will not represent the "40 percent of watersheds in the country" as noted in the Federal Register. The Council advises that the revised policy identify the approximate percentage of watersheds in the South where this policy would apply, rather than mislead the public.

- **Private Lands Impact**

The Council recommends that the Unified Federal Watershed Policy clarify what is meant by the statement that the "....policy is intended to foster more effective participation opportunities for Tribes, States, private landowners, and other interested stakeholders..." How does the government anticipate this policy to "foster effective participation"? Specifically, how will this policy effect private lands? The EPA moderator at our Town Meeting in Atlanta, stated that the policy *"...will effect private lands, for example when permits are issued...."* Yet, the Policy statement in the Federal Register states that this policy applies to federal lands. The Council is concerned that the real effort of the government is to further regulate private lands.

Over 90 % of the forested land in the South is privately owned. With this being the case in the South, the Council believes that the Federal Watershed Policy will be the first step in a process for government regulation of private lands. It appears that certain special interest groups desire the federal government to regulate private lands under the guise of "protecting watersheds". For example, one preservationist said at the Atlanta Town Meeting, *"...we need all the federal intervention we can get to protect watersheds."* The Council is concerned that the role of the Environmental Protection Agency in this Unified Federal Watershed Policy is in fact, an effort to achieve that goal of regulating private lands under the guise of "protecting watersheds" within the Unified Federal Watershed Policy. The Council does not believe federal government intervention is necessary, nor legal, nor wanted by the Americans who own the private land.

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- **Procedures for Delineating, Assessing, and Classifying Watersheds**

The Council is concerned with the role that the federal government in Washington D.C. will play in "delineating, assessing and classifying watersheds". In particular, we are concerned with a "one size fits all" mentality for the country as a whole when it comes to delineating, assessment and classification of watersheds.

In the Southern region, where National Forests make up 6% of the southern forests, the ability to "delineate, assess and classify watersheds" on public lands is limited. The Council is concerned that this type of delineation, assessing and classifying in the South will result in some form of rating system which will adversely affect National Forest management. For example, a watershed composed of 25% National Forest land in excellent condition and 75% private ownership in very poor condition might be ranked as a "problem watershed" thereby resulting in a National Forest management restriction (since the Unified Policy can only affect federal lands), when in fact, the problem is not on federal lands. A rating system, or as the federal policy states "delineating, assessing and classifying" must be done separately: one rating for private land and one for National Forest land. This would provide a much more accurate depiction of true watershed conditions for use in determining management direction for Forest Service or other federal lands.

Lastly, the policy totally lacks insight into ongoing watershed assessments, analyses and planning which is occurring on the National Forests in the South. In particular, we are concerned that the efforts being made on the National Forests in the South, with local public input, will be superseded by a national approach. The Council strongly recommends that a national approach not supersede the efforts which are ongoing here in the South.

- **Do We Need this Policy?**

The Council is unclear as to why a unified policy is needed and also, why it is being proposed in the last months of the Clinton/Gore Administration. This is the sixth policy/regulation released by the Clinton/Gore Administration in the past six months. Not one of the six policies/regulations refers to the other nor is their an effort by the Administration to look at the cumulative impacts of all of these proposals or to even discuss how they interrelate. What is the real purpose here?

It is one thing to encourage communication and coordination between federal agencies, but it is another thing to require federal agencies to follow a "unified policy" which might not necessarily focus on the mission of the agency, but rather focus just on watershed management. This could create a conflict between existing laws and regulations which drive various federal agencies and a policy which is not set by regulation or law. The Council questions the legal authority of a policy to supersede an agency's legal mandated mission and subsequent regulations.

Under the Forest Service National Forest Planning Process, communication and coordination between federal, state and local governments is already provided for. In addition, the Forest Service is already using a watershed approach and is in the midst of developing a watershed analysis prototype that will be used throughout the Southern Region National Forests. The Council therefore questions the need for a unified federal watershed policy for the Southern

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Region which might be a violation of the National Forest Management Act (NFMA) and subsequent regulations. If the policy is to guide planning direction, then that would in fact, be a violation of the planning requirements under the NFMA. A guide is in effect, a pre-determined decision which is the role of NFMA planning, not an administrative Watershed Policy. A watershed policy should only be to provide information which then can be used in the planning process.

- **Use of Consistent Science**

The Council does not believe that a Unified Federal Watershed Policy is necessary to ensure the use of consistent science. All too often, the government fails to utilize the science it already has. We do not believe that this policy will make things any better, in fact, we hope that the government is already using "consistent science". A directive to agencies to share information and to exercise opportunities to be involved in other agency programs would suffice.

- **Address Nonpoint Sources of Pollution ...identify BMPs, Adjust BMPs**

The Council is concerned that the policy is going too far into the level of nonpoint source pollution by seeking to "*identify BMPs and management strategies that meet Federal , State, and Tribal water quality requirements; and [A]djusting BMPs when monitoring reveals that they do not adequately protect water quality....*" Under Section 319 of the Clean Water Act, each State submits to the EPA, proposed BMPs. The EPA then approves those BMPs. Under the Unified Watershed Policy, the EPA appears to be seeking another opportunity to re-write the approved BMPs at a national level by suggesting *"....and adjusting BMPS when monitoring reveals that they do not adequately protect water quality."* Monitoring is a role for the States and one that is actively being undertaken. Congress also annual appropriates for states, dollars to study the effectiveness of the BMPs and gives the States the responsibility to "adjust" BMPs, not the EPA.

Respectively Submitted

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Executive Director

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