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This letter is to provide comments on the *Unified Federal Policy for Ensuring a Watershed Approach to Federal Land and Resource Management* published in the *Federal Register* on February 22, 2000. The proposed policy is duplicative and intercedes in states' current watershed planning and watershed management efforts, and is, therefore, unnecessary. However, in light of the proposed policy, we have made suggestions, raised concerns, and asked questions of the Forest Service in the following comments. We recommend federal land management agencies assist states by deepening their commitment to ongoing state watershed management programs by providing additional funding and technical expertise, rather than through redundant federal level coordination activities. Watershed planning and management strategies require participation from state, tribal, local, and private entities in order to enhance, improve, and protect watershed resources.

*Please note NMDA's comments are in bold following the original policy language.

INTRODUCTION

The goal of the Clean Water Action Plan is to accelerate the progress this Nation has made in improving the quality of its waters since the passage of the Federal Water Pollution Control Act of 1972, as amended (commonly referred to as the Clean Water Act). Federal agencies manage large amounts of public lands throughout the country. In the interest of protecting water quality, the Clean Water Action Plan announced the intention of Federal agencies to adopt a policy that will reduce water pollution from Federal activities and foster a unified, watershed-based approach to land and resource management. Implementation of the following proposed policy will improve water quality and aquatic ecosystems on Federal lands and will further the use of a watershed approach to Federal land and resource management activities.

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1. POLICY GOALS

We, the Federal agencies who have signed this policy, are committed to managing the Federal lands, resources, and facilities in our care as models of good stewardship and effective watershed management.

This effort should be led by the states in recognition of, and conjunction with, current state, tribal, and local programs—cooperation with federal land management agencies. Will the Environmental Protection Agency (EPA) be the lead agency of this effort to coordinate federal land and resource management agencies?

We recognize that existing programs for watershed protection and improvement are currently underway and are producing positive results. This policy will enhance these programs by improving consistency among Federal agency programs. We recognize that those agencies without established programs will face an additional challenge to implement this policy and that the pace and level of implementation will vary by agency. We seek to build on current efforts to achieve consistency.

The New Mexico Department of Agriculture (NMDA) supports the goal of achieving consistency between and among federal agencies in terms of resource management goals. However, NMDA would prefer federal government agencies' focus on coordinating its resource management/improvement goals with those already in place at the state, tribal, local, and private stakeholder level. Continued stewardship of watershed resources is a primary goal of the New Mexico agricultural community. NMDA believes state and local solutions recognizing the unique characteristics of each watershed, and on-going efforts to enhance and protect resources will yield the best results. Since fiscal resources are scarce, current resource protection and improvement efforts should not be duplicated by federal government agencies. The federal government should provide the cooperative resources and expertise to aid states in achieving their own watershed planning goals. Federal land does not exist in a vacuum. Rather federal land and watershed resources are part of a myriad of state, tribal, local, private, and federal resources, which must be managed cooperatively and conjunctively within states. Due to the unique patterns of ownership and land use in each state and locality, NMDA believes the state is best equipped to determine how to manage the resources within its borders. NMDA would like the unified federal policy to contain a stronger focus on the cooperative and coordinated actions that might occur between state, tribal, local, and private entities. If federal land management agencies coordinated their efforts with states, the coordination between and amongst federal agencies at the regional level would automatically evolve into a more unified approach—the unifying principle would be driven by the state.

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The following policy has two goals: use a watershed approach to prevent and reduce water pollution resulting from Federal land and resource management activities; and accomplish this in a unified and cost-effective manner.

To develop a unified Federal policy that meets these two goals, we incorporated the following guiding principles:

- 1. Use a consistent and scientific approach to managing Federal lands and resources and to assess, protect, and restore watersheds.
- 2. Identify specific watersheds in which to focus our budgetary and other resources and accelerate improvements in water quality and watershed condition.
- 3. Use the results of watershed assessments to guide planning and management activities in accordance with applicable authorities and procedures.
- 4. *Work closely with States, Tribes, local governments, and stakeholders to implement this policy.* **This should be the first goal of this policy if federal agencies are to be more efficient and cost effective. State, tribal, and local government efforts should pave the way for federal cooperation in each jurisdiction where federal agencies have responsibility for resource management activities. Thus, cost reductions, increased efficiency, and more effective program outcomes would be achieved if federal agencies sought partnership opportunities with state, tribal, local, and private entities. Program interests should be coordinated to yield the greatest results. The area where real coordination and improvement could be made would be in establishing the scientific methods to be used for collection of water quality data, water quality monitoring techniques, technology, solutions, and best management practices employed at each unique watershed level. The federal government could contract with states to manage the federal resources while retaining ownership. The federal government could function in a supporting role, helping states, tribes, local, and private entities achieve their watershed planning goals.**
- 5. Meet our Clean Water Act responsibility to adhere to Federal, State, Tribal, interstate, and local water quality requirements to the same extent as non-governmental entities. **What does this statement mean?**
- 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. **Again, the unified federal policy should emanate from state, tribal, and local standards, procedures, and management.**

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2. AGENCY OBJECTIVES

To accomplish these policy goals, we propose to use available resources and authorities to pursue the following objectives. All agencies will implement this policy as individual agency laws, missions, and fiscal and budgetary authorities and resources permit.

- 1. We will develop a common science-based approach to watershed assessment for Federal lands.
  - 1. *We will develop consistent procedures for delineating, assessing, and classifying watersheds.*
    - 1. We will work together to define and implement interagency guidelines for the delineation of watershed and sub-watershed hydrologic unit boundaries. **How will federal agencies coordinate this activity? States were asked to delineate watersheds and create hydrologic unit boundaries during the Unified Watershed Assessment (UWA) process. Therefore, federal agencies should use delineations and boundaries created by states during the UWA process. Once again, NMDA asks whether the Unified Federal Policy will duplicate work already done. What can the federal government contribute to improving the science and data collection efforts currently underway?**
    - 2. Building on current efforts, we will develop and test watershed assessment procedures in watersheds that have been delineated using the interagency guidelines. **Again, watershed planning is underway, which includes assessment procedures. Why would federal agencies devote resources to reinvent procedures already in use? Federal agencies could, instead, help enhance current procedures by devoting financial resources and expertise to current UWA processes.**
    - 3. Watershed assessments will determine existing and potential **(what is a potential condition?)** conditions of watersheds that involve Federal lands and resources **(what techniques will be used or what paradigms will be used to make these assessments, what science will be used?). Again, this statement fails to recognize current state, tribal, and local efforts identifying and characterizing watershed conditions in the state, which includes federal lands/watersheds.** We will provide the results of these assessments to States and Tribes for their use in refining

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their Unified Watershed Assessments. **Where states and tribes lack data, they could coordinate with federal agencies to determine who is best suited to make assessments. Why duplicate each other's work?**

- 4. We will develop a framework for classifying the condition of watersheds with significant Federal lands and resources. **States have already developed an appropriate classification system(s) through the 303(d) listing process. Would federal agencies be reinventing a classifying system? Duplication of efforts is never cost effective or efficient.**

- 2. *We will conduct watershed assessments for watersheds that have significant Federal lands and resources.* **States have already been required through 303(d) listing to identify watersheds, and states are in the process of conducting assessments of those watersheds. What does a seemingly redundant process do for all the entities involved?**

  - 1. Using cooperatively developed procedures and recognizing current agreements, we will assess the effect of our current and past actions on the condition of watersheds with significant Federal lands and resources in cooperation with States, Tribes, local governments, and interested stakeholders. **What would be the significance of assessing past actions? How would past action assessments be used to create current management strategies? How will current management actions be assessed? If states, tribes, and local governments do not agree with the federal agencies' assessments, what will be done? How will conflicts be resolved between state, tribal, local governments, and federal agencies if resource management strategies differ?**

  - 2. Before conducting assessments, we will develop schedules for assessments in priority watersheds and identify needed resources to assess all identified watersheds. **States have watershed assessment processes in place and are required to identify water quality limited stream segments, impaired waters, etc., as part of the 303(d) listing process priority watersheds are identified. There would be no need for federal agencies to go through this process again.**

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- 3. We will conduct assessments in priority watersheds on a 10-year cycle, unless a different cycle better demonstrates changes in a particular watershed's condition over time. We will conduct assessments in other watersheds on a planned, periodic cycle. **Number 2 states that schedules will be developed, but here a 10-year cycle is identified. In as much as the Unified Federal Policy prescribes a consistent and scientific approach to watershed planning, what science was used to determine that a ten-year planning cycle is best?**

- 4. We will use watershed assessments, where available, to protect Federal lands and resources, to improve management, and to assist State, Tribal, and local government protection and restoration efforts in watersheds designated as priorities by State and Tribal Unified Watershed Assessments. **Most states have developed their own UWAs. Why does the Unified Federal Policy for ensuring a watershed approach to federal land and resource management require its participants to do something that states have done or are in the process of doing? What kind of partnership does the Unified Federal Policy outline between states, tribes, local government, private landowners, and federal agencies?**

- 2. *We will use a watershed management approach when protecting and restoring watersheds.* **What does a watershed management approach to protection and restoration of watersheds mean?**

  - 1. *We will work collaboratively to identify priority watersheds.*

    - 1. We will work with States, Tribes, local governments, and interested stakeholders to identify specific watersheds with significant Federal lands and resources as priorities for protection, management, and improvement. **States, tribes, and local governments have identified priority watersheds with their 303(d) listing process.**

    - 2. We will identify priority watersheds based on factors that include:

      - (1) The percentage of the watershed under Federal management;

      - (2) Issues the Federal agencies identify, including possible adverse effects on water quality;

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- (3) Magnitude of water quality impairment, impacts to aquatic resources, and/or changes to flow regime;
- (*4) State and Tribal Unified Watershed Assessments;* **this should be of primary concern to the coordinated efforts of federal agencies. The federal agencies should follow state lead in this process.**
- (5) Vulnerability of the watershed to degradation; and
- (6) The extent of public interest.

- 2. *We will develop a process and guidelines for identifying and designating waters or watersheds on Federal lands that may have significant human health, public use, or aquatic ecosystem values and a need for special protection.* **What does "special protection mean?" How would special protection affect state, tribal, local, and government entities? What guidelines would federal agencies use to determine a need for special protection? What consideration will federal agencies give to the social, economic, and cultural aspects of a special protection designation? Will the National Environmental Policy Act play a role in a special protection designation? Does this policy confer additional power on federal agencies where land use activities are concerned?**
- 3. *We will implement pollution prevention and controls, consistent with applicable legal authorities.* **What legal authorities might apply? NMDA would like the framers of this policy to identify pollution prevention and control measures they might use to achieve their goals. How will federal actions affect existing state program solutions?**
  - 1. We will address nonpoint and point source pollution from Federal land management activities, protect or improve water quality, and meet applicable State and Tribal water quality requirements under the Clean Water Act.
  - 2. We will work with States, Tribes, and, as appropriate, local governments to address nonpoint sources of pollution by: **(states, tribes, and local governments as well as private landowners, and other interested stakeholders need resources in order to succeed in nonpoint source pollution mitigation/reduction strategies. Perhaps federal agencies could coordinate their efforts with the**

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above-mentioned entities and provide financial resources beyond those currently available).

- (1) Identifying best management practices (BMPs) and management strategies that meet Federal, State, and Tribal water quality requirements;
- (2) Adjusting BMPs when monitoring reveals that they do not adequately protect water quality; and
- (3) Mitigating impacts when implementation of BMPs results in unexpected adverse water quality impacts. **State, tribal, local, and private entities currently apply BMPs. These entities are also engaged in monitoring the success of BMPs. Coordination between federal agencies and the state/local entities would again be in order. Where improvements can be made, federal agencies could offer assistance to on the ground on-going efforts rather than reinventing or re-evaluating current programs.**

- 4. *We will improve watershed conditions through restoration and adaptive management.* We will work with States, Tribes, local governments, and interested stakeholders to improve the condition of priority watersheds. Changes in management strategies and restoration efforts will focus on watersheds where Federal land and resource management activities can meaningfully influence water quality and aquatic resources.

- 5. *We will base watershed management on good science.* We will use good scientific information from research and management experience in designing and implementing watershed planning and management programs, and setting management goals (e.g., desired conditions). To expand current knowledge, we will collaborate to identify research needs and contribute to or sponsor research, as appropriate. **Where federal agency watershed management and opinions about "good" science differ, how will agencies deal with those differences? Again, coordination between state and federal agencies would be of greatest use.**

- 6. *We will identify and incorporate watershed management goals into our planning, programs, and actions.* We will periodically review and amend, as appropriate, policies and management plans for Federal lands and resources to meet goals for watershed protection and improvement. We will incorporate adaptive management principles into our programs. Our watershed goals

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will seek to minimize adverse water quality impacts due to ongoing and future management programs, minimize impairment of current or future uses, and restore watersheds where State and Tribal water quality requirements under the Clean Water Act are not achieved. **How will future uses be determined?**

- 7. *We will help States and Tribes develop science-based total maximum daily loads (TMDLs).* We will develop a coordinated approach for assisting and supporting State and Tribal efforts to develop and implement TMDLs in watersheds with significant Federal land and resource management activities. We will provide technical assistance, tools, and expertise. We will use TMDL results in watershed planning and subsequent resource management activities to meet applicable State and Tribal water quality requirements under the Clean Water Act. **States are already engaged in TMDL development. As new information becomes available regarding the success of TMDL implementation, all parties will make adjustments. Why would federal agencies work in a vacuum to provide information to states when states are developing and implementing TMDLs? Has the assembled group of federal agencies sought input from states, tribes, and local governments on the TMDL activities? States, in fact, may be able to guide federal resource management activities.**

- *3. We will improve our compliance with water quality requirements under the Clean Water Act.*
  - 1. *We will review agency policies to improve compliance with water quality requirements.* We will identify and review our rules, policies, and procedures that affect water quality or watershed condition for compliance under the Clean Water Act with applicable Federal, State, Tribal, interstate, and local requirements for preventing and controlling water pollution.
  - 2. *We will integrate water quality standards and watershed management goals.* We will work collaboratively to clarify relationships under the Clean Water Act among BMPs, TMDLs, and State and Tribal water quality standards to achieve the following goals:
    - 1. Better coordination of watershed goals and objectives;
    - 2. Better sharing of scientific and technical resources;
    - 3. Water quality standards that better account for nonpoint source pollution;

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- 4. Better implementation mechanisms for meeting standards under the Clean Water Act, including practical interim measures where standards are not immediately achievable; and
- 5. Consistent treatment of Federal and non-Federal entities as required by the Clean Water Act. **Since water quality monitoring data has been cited as a weak link, what good scientific practice will federal agencies implement to overcome this problem? How will federal agencies help state, tribal, and government entities obtain better water quality monitoring data?**

- 3. *We will review our policies and processes that may affect land and water uses and water quality.* In cooperation with States and Tribes, we will review our policies and processes for land and water uses that may affect water quality and watershed condition. We will consider revising these policies or processes, as appropriate, to ensure that they address watershed protection, improvement, monitoring, and water quality compliance.

- *4. We will enhance collaboration.*
  - 1. *We will improve cooperation among Federal agencies.* We will develop a common framework for addressing water quality and aquatic ecosystem issues for watersheds at the national, regional, State, and Tribal levels.
  - 2. *We will improve cooperation with States, Tribes, and local governments.* We will develop formal agreements as appropriate with States, Tribes, and local governments to clarify responsibilities for watershed management. These agreements will seek a watershed-based approach for preventing or reducing pollution from point and nonpoint sources.
  - 3. *We will expand opportunities for participation by interested stakeholders.* We will seek participation by interested stakeholders in watershed planning and management decisions using available mechanisms in existing planning processes. We will:
    - 1. Identify specific opportunities for review and comment by interested stakeholders during Federal land and watershed planning efforts;
    - 2. Provide opportunities for interested stakeholders to participate in monitoring and assessing watershed

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conditions and in implementing watershed restoration projects; and

- 3. Seek early feedback on key decisions affecting watershed management through the Watershed Forum process called for in the Clean Water Action Plan and carefully consider this feedback in agency decision-making.

- 4. *We will expand opportunities for dialogue with private landholders.* In priority watersheds with a mix of Federal and private lands, we will work with private sector landholders to involve them in the watershed management process. We will work closely to ensure that Federally funded projects involving private cost-share partners fully consider watershed management objectives for both public and private lands. **What assurance will private landowners have from federal agencies that federal agencies will consider their needs in watershed management strategies?**

- 5. *We will coordinate monitoring.* We will develop and implement a coordinated monitoring and evaluation approach and will monitor water quality trends and our management activities to determine whether progress is being made in protecting and improving water quality. **Specifically, how will this be accomplished?**

- 6. *We will share training, information, and resources.* To promote collaboration and consistency in watershed management practices, Federal agencies will continue, expand, develop, implement, and make available joint training programs; share information and resources; transfer technologies for watershed management; and develop a common way to organize and present information and make it more accessible.

This policy does not create any right or benefit, or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person. This policy does not alter or amend any requirement under statute, regulation, Executive Order, OMB or EPA guidance.

Sincerely,

Frank A. DuBois

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