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Bison Land Resource Center

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USDA - Forest Service
Content Analysis Enterprise Team
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Dear Team:

This letter provides the comments of Bison Land Resource Center on the Proposed Unified Federal Policy for Ensuring a Watershed Approach to Federal Land and Resource Management. Bison Land Resource Center is an environmental research and education organization based in South Dakota. We focus on regional environmental issues in our state, the Black Hills ecosystem, and the state's nine contiguous reservations.

We believe that the proposed Policy has the potential to improve environmental conditions. If the Bureau of Land Management and the National Forest Service coordinated efforts in the Black Hills ecosystem, for example, the results could be positive. Similarly, coordination among BLM, EPA, and COE could benefit the Missouri River. We do, however, have concerns about what this plan could mean if it is implemented as written.

Our concerns arise largely because the plan is vague, leaving lots of room for administrative discretion that could either hurt or help our region. We would prefer to see a plan that is more specific and clearly states what you plan to do on some key points. For example, the plan is very vague about the role of various types of jurisdictions. If you are attempting "to adhere to Federal, State, Tribal, interstate, and local water quality requirements" and those requirements contradict each other within a watershed -- as they are sure to do -- what is the procedure for resolving the situation? Whose laws take precedence? Which agency takes the leadership role? How would

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existing state, tribal, and local watershed policies be impacted?

We have two concerns that are linked to this set of questions. First, we are concerned that the many existing water pollution problems in our area get resolved, and that better government structures be created so that future problems will be addressed quickly. We fear that this plan, as written, could result in the creation of another bureaucratic mechanism that could cause conflict and/or delay to the detriment of implementing on-the-ground solutions for existing and potential environmental problems.

Second, we are concerned that the strongest existing environmental policies will be compromised in an attempt to find multi-jurisdiction solutions. In some cases, the strongest policies are tribal. In light of federal policy declaring that tribes should be dealt with on a government-to-government basis, tribal policies should not be overrun by the policies of other jurisdictions. This plan offers nothing to those who fear that tribal rights will again be trampled. In other cases, the strongest policies are local. This is usually the result of local governments' attempts to protect citizens from outside interests that want to set up polluting enterprises. These strong water-protection policies preserve the very existence of rural communities and should not be overturned in an attempt to find multi-jurisdictional solutions that could allow polluting activities.

Along the same line, the plan should be clear about its impact on existing litigation. As you know, there is ongoing litigation involving the Black Hills ecosystem that would be impacted by this plan. But it is not possible to tell what impacts the current document could bring.

Another concern that arises as a result of the plan's vagueness involves questions about water quantity issues. As we know from experience, improving water quality and ecosystem health in a watershed does have water quantity impacts on some stakeholders. Instead of ducking the issue by saying the plan has no impact on water rights, the plan should be specific about what happens when water quality, water quantity, and ecosystem health intersect. We would prefer a focus on ecosystem health and water quality over water quantity.

In addition to vagueness, we are concerned that the strong focus on science will work to the detriment of other methods of study, learning, and input. As an organization whose Board is predominantly Native American, we are keenly aware of the knowledge base that indigenous cultures hold about watersheds on this continent. In many cases, modern science is unaware or only peripherally aware of this information. The plan's heavy focus on science actually deprives agencies of useful information that could come from indigenous sources.

In addition, in places like South Dakota, which has a long history of tribal-state conflict over resources, the involvement of State scientists in the proposed process almost guarantees the involvement of anti-Indian interests. Tribal governments are generally poorly staffed, and native populations as a whole have less formal education. This means that, unless the plan is changed to balance the scientific approach with other approaches, it is biased against Native Americans. This is, of course, unacceptable from a variety of federal policy perspectives.

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To put it more bluntly, if this plan means that scientists will make all the decisions, we oppose its implementation. The United States is a government based on democratic principles that require a multifaceted approach to public lands management. Science is but one tool toward that end, although often an important one. The proposed plan must be altered to create a balance between science and other approaches to knowledge, and to clearly incorporate indigenous and other locally-based knowledge in the planning process.

The plan has another bias that must also be rectified. As currently written, the plan increases participation and collaboration only for government units and private landholders. The participation of non-governmental, non-private-landholder stakeholders will be sought "using available mechanisms in existing planning processes." These existing processes are, of course, often totally inadequate for real public input into federal decisions. The result of this plan would be that local residents who don't own land (often low-income people), nonprofit groups, Native Americans with sacred sites on public lands, and those with recreational or historical interests will be among the groups whose roles in watershed planning will be effectively diminished. We strongly favor changing the wording of the plan to favor increased participation from all interested parties, not just governments and private landholders. As a nonprofit group with environmental expertise, a large information base, and professional policy analysts in a region that is short on those resources, we would like every opportunity to offer our expertise to watershed planning efforts, rather than see our ability to provide input diminished.

The plan is also not clear on whether "private landholders" includes those with subsurface rights, or only those with surface rights. Clearly, good watershed planning should include groundwater, but in some situations, giving increased participation to those with subsurface rights could mean strengthening already-powerful energy companies at the expense of ecosystem health. The plan should be clarified on this point.

The last concern we have is that the plan's criteria for focusing on some watersheds over others will send federal dollars to the most populated areas. These criteria are somewhat vague, but they include the "extent of public interest" and the watershed's vulnerability to degradation. Both of these factors favor highly populated areas, which already have more tax resources to direct toward watershed quality than does our region. Federal policies that favor more populous areas leave those of us who live in low-population areas with proportionally fewer government resources. This plan should not increase urban favoritism in the environmental arena. Instead, criteria should be added to the plan that will direct federal efforts where they are most needed, regardless of population. Along this line, we are glad to see that the plan would lead to assistance for tribal and state governments in developing TMDLs, which is being done in a very slow and slipshod manner in South Dakota.

While we believe that the plan is meant to improve environmental quality in public lands watersheds, there is nothing here that would insure that result. We encourage changes that would guarantee improved environmental quality, rather than implementing a plan that -- as written -- could lead to increased conflict, environmental degradation, decreased public participation, and

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less federal funding to meet our region's many needs. We also encourage changes that will clearly incorporate the knowledge of indigenous and local land-based peoples into the decisionmaking process.

If you have questions, please let me know. Please keep us informed of further actions involving this proposed plan.

Sincerely,

Lilias Jones Jarding

Lilias Jones Jarding, M.S.
Executive Director

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