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NORTHWEST MINING ASSOCIATION

April 24, 2000

USDA-Forest Service
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Re: Unified Federal Policy for Ensuring a Watershed Approach to Federal Land and Resource Management

Greetings:

The Northwest Mining Association (NWMA) hereby submits comments on the proposed "Unified Federal Policy for Ensuring a Watershed Approach to Federal Land and Resource Management" (UFP), published in Federal Register Volume 65, No. 35, pages 8834-8839 on February 22, 2000.

NWMA is a 105 year old non-profit, non-partisan trade association with approximately 2,500 members representing all facets of the mining industry. The majority of our members work or live in the West, the region that will be most heavily impacted by the proposed policy.

The Association appreciates the desirability of consistency in approach among various federal entities in regard to policy implementation. When done in a legal and proper manner, all stakeholders benefit from improved predictability and reduced costs due to organizational efficiency. Most importantly, the environmental improvements desired by all are more likely to be achieved. Unfortunately, NWMA has serious reservations in regard to the current policy proposal.

First, we are most concerned about the overall legality of the UFP. While much of the Clean Water Action Plan proposed by President Clinton in February 1998 is a repackaging of current authorities, there are significant items that appear to go well beyond any statute language passed by the Congress. For example, the assertion that ground water flows will be assessed implies that the federal government will attempt to control that resource. This is an area clearly in the jurisdiction of the States, as it is they who set groundwater quality standards and determine water both surface and subsurface water rights.

Second is the general issue of continuing federal encroachment on existing water rights. The agencies most responsible for this situation are National Marine Fisheries Service and U.S. Fish and Wildlife Service. These two agencies are aggressively working to abridge water rights held by private parties, especially in the West, purportedly to protect endangered species. However, the pattern that emerges clearly shows a pattern of discrimination against rural industries, such as irrigated agriculture, ranching and mining. Urban centers seem to be exempt, though we can only speculate on the reasons. Obviously, NWMA can not support UFP as proposed since the bland reassurances it incorporates signal that the current abuses will continue.

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Third, it is vitally important that all stakeholders, not just federal entities, be full partners in developing consistent procedures for delineating, assessing, and classifying watersheds. If industry is to be a meaningful partner in meeting the goals of the Clean Water Act, industry expertise must be incorporated at the development stage. In addition, all parties, including the States and Tribes, must be part of the assessment process itself, if the federal government expects the results to be accepted.

Forth, another area of questionable legality is attempting to integrate water quality standards and watershed management goals. EPA, in particular, has purposely blurred the line between point and non-point sources over the past several years. As EPA is currently attempting eliminate any regulatory distinction between the two types of sources as part of the TMDL rulemaking, NWMA views the proposed "integration" with great skepticism.

Fifth, NWMA would welcome an opportunity for meaningful dialogue between private landowners and the federal agencies party to UFP. It is our position that such a dialogue currently does not exist. The experience of NWMA members in the Pacific Northwest and elsewhere is that the agencies tend to dictate terms and otherwise bully private landowners, especially those unfortunate enough to be inholders. The Association offers its support in facilitating the establishment of such discussions.

These comments represent the major concerns of the Association. As the proposal as published is largely conceptual, we reserve the right to expand our statements as more details are made available by the federal agencies that are signatories to the policy.

Sincerely,

Ivan Urnovitz

Ivan Urnovitz
Special Projects Director

cc: Laura Skaer, NWMA Executive Director

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