

# STEWARDS OF THE SEQUOIA

Division of CTUC non profit 501c3  
PO Box 267  
Lake Isabella, CA 93240



August 23, 2011

Gaylon Lee  
Division of Water Quality State Water Resources Control Board  
1001 I Street, 15th Floor  
Sacramento, CA 95814

Re: Comments on Preliminary DRAFT CA Water Standard for National Forest Lands for: **Draft Mitigated Negative Declaration and Draft Statewide Conditional Waiver of Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Activities on National Forest System Lands in California**

SUBJECT: "Comment re: USFS Waiver"  
ForestPlan\_Comments@waterboards.ca.gov

Dear Mr. Lee,

As the largest on the ground volunteer organization in the Sequoia National Forest we are greatly concerned about the many aspects of your proposal which would negatively impact recreation and discourage volunteer trail maintenance at the very time when it is needed most due to reduced budgets. We are also concerned about the additional costs and burdens your proposal will impose on the Forest Service which will harm the environment by delaying and reducing on the ground forest health and maintenance projects.

The State Water Board proposal goes far beyond what could be reasonably considered under the stated "Nonpoint Source Pollution Control Program"; instead seeking to control, restrict or effect many aspects of federal land use which have little or no impact on State Water Quality.

The proposal will create indirect impacts on virtually every activity on National Forest Lands, including but not limited to- Recreation, Timber, Grazing, Fuel Reduction and Forest Health Projects. Therefore we feel the State Water Control Board must do a full Environmental Impact Report (EIR) for the proposal including a study of the cumulative impacts.

Stewards of the Sequoia are active stakeholders with the Sequoia Forest Service. We have a Memorandum of Understanding with the Forest Service. We have formally adopted nine trails and our volunteers perform maintenance on over 200 miles of trails each year through our award winning Trail Appreciation program. We represent over 2300 members who enjoy all forms of recreation in the

Sequoia National Forest. Our members love the Sequoia Forest and are active conservationists concerned about the many negative impacts the State Water Board proposal will have on forest health, volunteerism and public access.

The State Water Control Board proposed Negative Declaration would violate CEQA by oppressing and delaying the social, economic or recreational development and advancement in relation to public lands, private lands and Forest Service lands (*Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 576.*). For example the State Water Board proposal would require massive amounts of double work and would delay most every project on Forest Service Lands in violation of CEQA. It would oppress and delay recreation projects by requiring the Forest Service to submit for State waivers even for normal trail maintenance.

The State Water Control Board has hired biased people such as Lisa Belenky, the attorney from the Center For Biodiversity, as aquatic specialist to work on the proposal. There are clearly many more qualified and non biased aquatic specialists, but the State Water Board has chosen instead to hire a lawyer with vast experience in suing the Forest Service on environmental issues. This has subverted the State Water Board proposal and actions in violation of CEQA.

Please consider our comments and include them in the record.

Sincerely,

Chris Horgan  
Executive Director  
Stewards of the Sequoia  
Division of CTUC 501c3 non profit  
[chris@stewardsofthesequoia.org](mailto:chris@stewardsofthesequoia.org)

Comments continued on following pages

*"Since being founded in 2004, Stewards of the Sequoia continues to be the largest on-the-ground organization of volunteers in the Sequoia National Forest. Our crews have maintained over 1,800 miles of trails and have planted hundreds of trees in reforestation projects. We represent in excess of 2300 members whose activities include camping, hunting, fishing, hiking, mountain biking, motorized recreation, boating, windsurfing, rock climbing and horse riding"*

Promoting Responsible Recreation & Environmental Stewardship

The esoteric title of the State Water Board proposal

**Draft Mitigated Negative Declaration and Draft Statewide Conditional Waiver of Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Activities on National Forest System Lands in California**

fails to provide any indication that it specifically intends to address OHV trails.

Reading the title and indeed even reading the proposal one would understand that OHV trail maintenance would be treated as a low risk Category A type of activity along with grading and paving of roads, which have no need to file for a waiver under this proposal. However when the State Water Board was asked in recent email to confirm this they responded that many aspects of OHV trail use, including maintenance, would be treated as Category B and would require a waiver. This means the proposal is unclear and the public is unaware of the actual impacts of this proposal.

Yet OHV trail management and maintenance has been specifically addressed through the Forest Service Motorized Travel Management public planning process in each National Forest over the past seven years and that planning still continues today. It is misleading for another agency, like the State Water Control Board, to institute a parallel planning process that also affects OHV trails, especially when the State Water Control Board has made no effort to notify the public of this effect.

This lack of transparent disclosure is poor process to say the least. It is not enough that buried within the State Water Board document with an obtuse title are vague minimal references to dual requirements that upon closer inspection will lead to huge new compliance requirements for normal trail use and maintenance. That those two requirements are conflicting is another problem, where one states OHV trail maintenance as low risk and no waiver requirement and another states that OHV trails are moderate risk and require a waiver.

Additionally since OHV trails are already subject to numerous strict regulations it is hard to justify more regulations, especially when they would discourage needed maintenance, increase maintenance costs and thereby harm the environment. The increased proposed regulations to OHV trails would at best provide diminishing returns, since OHV trails already have measures in place to reduce erosion.

**RECOMMENDATION:** The State Water Board must remove all sections of the proposal that are not transparent or that are similar or duplicate other planning/analysis processes such as OHV Trails or rate them as low risk with no waiver requirement.

## **1- Natural Water Quality Does Not Always Improve**

The proposal states that water quality can only be allowed to improve:

*65. State Water Board Resolution No. 68-16 ("Statement of Policy with Respect to Maintenance of High Quality Waters in California") **requires that whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality must be maintained.***

However this ignores natural occurrences that may change water quality and degrade it in the eyes of the State Water Board. For example wildfire runoff as cited in the above comments which fed into Lake Isabella and altered the PH and Dissolved Oxygen and well as Nutrients, causing it to be listed as impaired.

According to the proposal there is no acceptable water quality. The State has set up a never ending feedback loop that requires the Forest Service to continually take action and consume resources to “avoid, minimize and mitigate impacts”. This means that even if the water quality is good the Forest Service will still have to take additional actions based on whatever the State Water Control Board has listed as an impact in the proposal or feels may have an impact on water quality, regardless of the water quality.

*Make such changes as may be necessary to **avoid, minimize, and mitigate impacts** of NPS activities to water quality.*

**RECOMMENDATION:** It is unreasonable to hold the Forest Service or any agency to a condition of ever increasing water quality. The proposal must allow for natural changes and possible reduction in perceived quality. The proposal should define a level of acceptable water quality, which allows for natural degradation. The Water Board should not hold the Forest Service to an impossible standard of ever improving water and even to a higher standard than the State Water Board requires.

## 2- Proposal Seeks to Negatively Impact the Very Activities Cited As Important

The proposal correctly states:

***The NPS activities regulated by this Waiver provide economic, recreational, and environmental benefits.** Good timber management provides lumber products, improves carbon sequestration, and provides local employment, particularly in areas of the State with chronic underemployment. Vegetation manipulation improves forest health and biodiversity, reduces risk of catastrophic wildfire, improves public safety, and provides biomass for energy production. Watershed restoration improves the ability of damaged watersheds to provide high-quality water as well as improving riparian and aquatic habitats. Range management provides natural fodder for livestock, helping to hold down food costs. Forest recreation enhances physical, emotional, and mental well-being. Fire suppression minimizes the human, water quality, and environmental damage caused by wildfire, and post-fire recovery further minimizes such damage. Good road management provides safe access for all of the foregoing activities, while minimizing the overall impact on water quality and the forest environment.*

Then it goes on to reach the following erroneous conclusion:

*For these and other reasons, **any** degradation of water quality that may occur as a result of the NPS activities regulated under this Waiver is consistent with maximum benefit to the people of the State.*

The absolute quality of water is not a direct factor in Timber Management, Vegetation Manipulation, Watershed Restoration, Range Management, Recreation, Fire Suppression or Road Management. Water quality may be degraded for any number of reasons, such as a natural fire and yet all the above activities are still able to be performed. The State Water Board claims their regulations would be of maximum benefit to the people of the State, but this is not so if one considers the actual costs, delays, wasted resources and duplication of efforts this proposal would create.

What the State Water Board apparently fails to consider is that the Forest Service must already comply with the strictest environmental regulations in the world and manages each of the above important aspects of public land use under those strict regulations. It makes little sense for the State Water Board to add extra burdens which will reduce the ability of the Forest Service to perform needed maintenance and

projects. The additional proposed requirement of the State Water Board will negatively impact each of these important activities and the environment by consuming resources that could be used for environmental projects, but will instead be used in order to get a waiver.

**RECOMMENDATION:** In order to best provide the maximum benefit to the people as the State Water Control Board demands, the Forest Service must not be subject to increased bureaucracy or additional regulations. The cumulative impacts of the proposal to each of these activities must be studied in an EIR by the State.

### 3- Proposal Negatively Effects Environment

The State Water Board incorrectly feels the proposal will not have a significant effect on the environment:

*After considering the document and comments received during the public review process, the State Water Board hereby determines that based on the whole record, there is no substantial evidence that the proposed project, with mitigation measures, will have a significant effect on the environment.*

Clearly requiring the Forest Service to perform additional work prior to implementing projects such as normal trail maintenance will mean that maintenance funding will have to be used for compliance and that less maintenance will be performed, as well as maintenance being done later than it would have been without the proposed requirement. Since maintenance reduces impacts and benefits the environment, it is also clear that this proposal will negatively affect the environment by reducing and delaying maintenance. Just considering trail maintenance alone this proposal will have a huge negative impact on the environment. When one considers all the other projects such as Timber, Range, Recreation, that will be delayed and the funding consumed with complying with the many proposed State requirements, the negative impacts would be staggering.

### 4- Intention to Increase Efficiency and Effectiveness

The intent of the State Water Board document is to increase efficiency and effectiveness:

**5. Both USFS and Water Boards have limited resources to protect water quality and it behooves both entities to make the process for maintaining, protecting and restoring the quality and beneficial uses of water as efficient and effective as is feasible.**

The document claims to be a Waiver that will increase efficiency and effectiveness for the Forest Service to continue providing timber management, road management, recreation, grazing, vegetation manipulation, wildfire management and watershed restoration. In actuality the CA State Water Board is adding complexity and additional regulations to the management of federal lands the State of California is not responsible for managing.

The proposed waiver states:

**2) USFS administers NFS lands across the entire State and implements its national and regional mandates and directives on a statewide basis, within eight Water Board regions and affecting 11 Water Board offices.**

**3) Priorities for remediation of legacy1 problem sites, watershed restoration and monitoring are best established on a statewide basis, without trying to satisfy competing priorities between Regional Water Boards.**

**The above highlights the problem of different standards and competing priorities at the State Water Board Level**

**6. NFS lands are managed in accordance with a nested hierarchy of statutes, regulations, plans, manuals and handbooks.** These address USFS activities nationally, in multiple and single USFS regions, in multiple and individual national forests, and individual projects and activities. These elements are described in this section, and are referred to collectively as “USFS Guidance.” **USFS Guidance addresses protection, maintenance, and enhancement of water quality in a reasonable and logical manner at its various spatial scales.**

The above highlights that the National Forest Service already has in place the reasonable and efficient methods to protect water quality.

So the real problem lies with the CA State Water Board and considering this it would be best for the CA State Water Board to remove itself from the equation and let the Forest Service do the job more consistently and effectively.

**RECOMMENDATION:** The most effective and efficient way for the Forest Service to maintain, protect and restore the quality and beneficial uses of water on National Forest Lands in California would be for the State Water Board not to interfere with the Forest Service. There are more than enough existing federal and state water regulations and standards in place which the Forest Service must currently comply with in order to efficiently and adequately protect water resources.

In this case perhaps the most effective and efficient use of State Water Control Board resources would be to provide the funding that the State Water Control Board plans on spending, creating, implementing and administrating these new regulations directly to the Forest Service for use in managing public lands in order to produce the effect desired of this proposal-namely to effectively and efficiently protect water quality on California Forest Service Lands.

## 5- Forest Service is already under Strictest Regulations in the World

In order for the Forest Service to receive a waiver from the State Water Board it must do double work per the below from the document, however that is really unnecessary considering the existing federal regulations the Forest Service must comply with already fully address water protection issues.

*The Waiver requires that any NEPA analysis of specific projects that USFS wants to be covered by the Waiver **be submitted** to the affected Regional Water Board (including responses to public comments. The Water Boards use NEPA documentation, or other available information, to determine the applicability of the Waiver to any specific project and to determine what specific prescriptions may be needed.*

The document acknowledges there are already “three major sets of statutes” at the national scale. The document then goes on to describe in detail over 5 pages the many things the Forest Service must already do in order to protect water quality.

**7. Three major sets of statutes and regulations that apply at the national scale have great significance for water quality:** a) the National Environmental Policy Act (NEPA), which is the federal analog of the California Environmental Quality Act (CEQA), 2) the Travel Management Rule (TMR), and 3) the USFS Watershed Improvement Program (WIP).

It is also of concern that the State Water board requirements that are contained in the draft document contradict the mandates given to the national forests under National Forest Management Act and Multiple Use Sustained Yield Act.

**RECOMMENDATION:** In order to best meet the State Water Board’s intent to protect water quality in the most “efficient and effective” manner the State Water Board should grant automatic waiver to all Forest Service projects since they must comply with sufficient existing regulations and federal mandates to adequately protect water resources.

## 6- Proposal Not in the Public Interest

The State Water Board mistakenly feels their proposal is in the public interest:

**67. *The State Water Board has reviewed the contents of this Waiver, its accompanying Initial Study and Negative Declaration, written public comments and testimony provided after notice and hearing, and hereby finds that the adoption of this Waiver is consistent with applicable basin plans, and is in the public interest.***

**In order to be in the public interest this proposal must provide benefits. Instead we find the proposal would have the following negative effects:**

- Discourage volunteerism by creating additional requirements prior to allowing normal trail maintenance
- Harm the environment by delaying forest health projects
- Increase the existing maintenance backlog by adding new requirements
- Consuming large amounts of funding on needless compliance documentations and double oversight, that would have been used for on the ground projects
- Reduce or restrict public access to Forest Service lands due to lack of funding to comply with new requirements.
- Decreases efficiency and effectiveness through additional bureaucracy
- Increased costs and delays and a reduction of the following projects due to increased costs:
  1. Non-emergency fire restoration and rehabilitation of burned areas.
  2. Pre-Commercial thinning in designated riparian zones, or using heavy equipment, or with burning.
  3. Vegetation management, particularly prescribed burns mechanical mastication, and the use of hand crews, adjacent to streams and drainages, or other situations or locations where likelihood of discharge exists.
  4. Range management activities.
  5. Understory or pile burning within designated riparian zones.
  6. Activities conducted by hand crews in designated riparian zones and that pose a risk of discharge.
  7. Road decommissioning.
  8. Road upgrading and storm-proofing where there is potential for discharge.
  9. Construction of new roads (not subject to state-wide storm water permit).
  10. Motor vehicle trails and their use.
  11. NPS activities associated with mining (e.g., roads, pads, cleared areas as described in finding 38(b)).
  12. Timber harvest and fuel reduction activities, including forest restoration projects and research and demonstration projects on fuel reduction.



13. Watershed projects, including but not limited to instream restoration projects and legacy NPS remediation.

**RECOMMENDATION:** The cumulative impacts of this proposal on each of these activities must be studied in an EIR by the State.

## 7- What is the True Cost of this Proposal?

We have asked the State Water Board the following questions and they have stated they do not know the time or costs involved.

1. How many hours and what level of Forest Service staff (GS) will be required to comply with this proposal?
2. How many hours and what pay level of the State Water Board will be required to comply and administer this proposal?

The State Water Board has not provided this information and therefore has failed to estimate the economic impacts and real cost of the proposal.

**RECOMMENDATION:** The true costs of the proposal must be fully determined and studied in an EIR by the State.

## 8- Exempt Activities that have Existing Procedures to Minimize Impacts

The document states:

*59. USFS emergency activities may include wildfire suppression and BAER activities. **The USFS has procedures to address fire suppression activities and minimize impacts of the suppression activities on water quality. Each Forest also has conditions and processes in its LRMP to address fire suppression activities, including guidance for fueling equipment, use of fire retardants, and other components of fire suppression.***

The proposal therefore exempts fire suppression activities from the waiver due to having existing procedures to address and minimize impacts, as well as conditions and processes in its LRMP. However this is true of Timber Management, Road Management, Range Management, Recreation, Off-Highway Vehicles, Vegetation Manipulation, Watershed Restoration, Fire Suppression and Fuels Management; all of which this proposal does not exempt.

**RECOMMENDATION:** All activities which having existing procedures to address and minimize impacts, as well as conditions and processes in its LRMP must be exempted from this proposal and waived. This would increase efficiency and effectiveness per the State Water Board intent.

## 9- State Water Board Places the Burden on the Forest Service

The State Water Board seeks to increase effectiveness and efficiency; however the proposal places the major burden on the Forest Service.



*The Waiver requires that USFS submit to the State Water Board's Executive Director an annual summary of the status and results of this program, and a more comprehensive analysis of monitoring results about every fifth year.*

At the same time the proposal seeks to tie the hands of the Forest Service in terms of what it can do to manage the public lands.

**RECOMMENDATION:** As this is a State Water Board proposal it should be the State Water Board who provides the annual summary of the status of this program and more comprehensive analysis results.

## **10- Wildfires are the Largest Source of Sediment Discharge-Not OHV Use**

The document incorrectly states that OHV recreation is the most rapidly increasing source of sediment discharges on NFS lands:

**• Off-highway Vehicle (OHV) Recreation:** *Motorized recreation is the fastest growing use of NFS lands. The increased power and capabilities of OHVs, together with population growth, has greatly increased both the range of and demand for motorized access. OHV recreation is the most rapidly increasing source of sediment discharges on NFS lands.*

**The most rapidly increasing source of sediment discharges on NFS lands is massive erosion caused by unnatural wildfires** denuding the forest and in some cases sterilizing the soil caused by neglect and lack of management to reduce unnaturally high fuel loads and thin diseased and dying forests-This neglect and lack of management has been imposed through overly burdensome regulations, such as those in this document proposed by the State Water Board of CA, as well as other regulations that were supposed to protect the watershed, but instead have destroyed them and lawsuits blocking active management, also supposedly to protect the watershed but instead destroying them.

The Sierra Nevada Conservancy report on Climate change confirms the need to increase active management and reduce unnaturally high fuel loads in order to protect our forests and prevent them from being devastated by unnaturally large and hot fires.

The document seeks to create 'new and stronger' objectives and BMPs (below) which would no doubt increase costs and scope for each and every on the ground project.

*22. The USFS, in collaboration with the Water Boards and stakeholders, has updated its WQMP to reflect these changes. The most significant changes include the following:*

*a. **New and stronger objectives** for protecting the quality and beneficial uses of water.*

*b. **New and stronger BMPs** for new project or activities, including:*

- 1) National forest roads, including their location, design, construction/reconstruction, use, maintenance and decommissioning;*
- 2) Range management; and*
- 3) OHV recreation.*

Yet the very same document admits that the **Forest Service lacks the funding** to provide necessary maintenance.

**Surely creating "new and stronger" State Water Board Regulations will increase costs thereby causing even fewer roads to receive maintenance.**

**RECOMMENDATION:** Change all references to the largest form of sedimentation discharge in the proposal to wildfire, not OHV use. Eliminate any duplicate efforts by the State Water Board with regard to the Forest Service in order to maximize efficiency and reduce maintenance backlog.

## 11- Waste Discharge was not meant to Include Sediment from Trails

The State Water Board has provided us with the following definition for Waste Discharge:

### Q3. What is considered as Waste Discharge? Especially as it relates to your proposal items # 27, 28, 29?

A3. Per California Water Code (CWC) § 13050 (d), "Waste" includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal. The two most common discharges from managed forest lands are increased heat and sediment from human activities.

The above description would not bring to mind sediment dirt flowing downhill. Sediment has been moving in streams, creeks and rivers since the beginning of time. This is how our landscapes, ridges, valleys and canyons have been formed. It is part of nature to move sediment downhill. Sediment from a trail is the same dirt that mother nature moves every day from the streambed.

**RECOMMENDATION:** The State Water Board should not consume their valuable time and the valuable time of the Forest Service in attempting to add additional restrictions to the already strict trail erosion regulations in order to possibly further reduce the already minimal contribution which trails have to sedimentations.

## 12- Lack of Basis for Rating OHV Trail Runoff as Producing More Discharges

In a written response to our questions on 8/23/11 the State Water Board stated:

### Q14. What are the reasons for making OHV trails subject to Category B?

A14. Due to their weight and power, OHVs can cause greater soil displacement and erosion on trails than other types of trail use, thus posing a greater risk of generating significant sediment discharges.

Yet sediment discharges are caused by water flowing down the hill, not the type of use or the amount of power possibly generated by an OHV. There are many required methods in place on OHV trails to minimize or eliminate water flowing down OHV trails under both Forest Service and State regulations such as water bars, rolling dips and maximum slope trail gradient.

You can learn more about this in our Powerpoint –Successful Management of Forest Trails [www.stewardsofthesequoia.org/Powerpoint/Successful\\_Management-Forest\\_Trails-Stewards.ppt](http://www.stewardsofthesequoia.org/Powerpoint/Successful_Management-Forest_Trails-Stewards.ppt)

The State Water Board has not shown in any factual way why OHV use is being singled out for additional scrutiny.

Indeed we find the greatest amount of erosion takes place on non motorized trails where people tend to cut switchbacks on steep terrain as well as hike off trail. Here is a picture of a hiking trail with far greater

erosion than we have seen on motorized trails and no mitigation measures in place or required to be in place.



Massive Erosion on Hiking Trail

It should also be noted that motorized trails have been under far greater scrutiny and have far more regulations that they must and are complying with, in order to reduce and control erosion, those controls are not in place on non motorized trails. Non motorized trails also have less volunteer and self funded programs, so non motorized trails are at far greater risk of causing erosion than motorized trails which are highly regulated.

Another question we asked and the State Water Board answer:

**Q4. Would all trails be subject to waiver requirements or only OHV trails?**

A7. All potential waste discharges, including those from any trails, can be regulated by a Water Board. The most common regulatory mechanisms are a Report of Waste Discharge and/or a Waste Discharge Requirement. A Water Board can “waive” application of these mechanisms if certain conditions are met, providing a less burdensome regulatory alternative. If USFS so chooses, non-motorized trails can be covered by waiver Category A. OHV trails could be covered by Category B. Alternatively, any trail that does not meet the Waiver’s conditions could be regulated under a ROWD and/or WDR instead.

It should be noted that non motorized trails do not have the numerous regulations in place to reduce erosion that motorized trail must have such as water bars, rolling dips and maximum slope trail gradient. Also non motorized user are allowed to travel cross country straight uphill causing the kind of massive erosion shown in the preceding picture.

**RECOMMENDATION:** The State Water Board needs to consider these facts and rate OHV trails as Category A due to their higher degree of erosion control regulation as well as enforcement and rate Non Motorized as Category B due to their having fewer if any erosion regulations and a greater likelihood of causing erosion due to off trail travel, cutting switchbacks and no enforcement.

### **13- OHV Trails Improperly Singled Out for Waiver**

The proposal states that OHV trail maintenance will be treated as a low risk Category A type of activity. Certainly OHV trail maintenance has a much lower impact that road grading and paving, which the State Water Control Board listed as Low impact Category A also. While it is not clear in the proposal we have been told that the State Water Control Board intends to rate motorized vehicle trails and their use as Category B and require a waiver in order to be allowed to use the OHV trails and grading of OHV trails. This arbitrary, there is no basis for elevating OHV trail use to higher impact. There is no requirement to get a waiver for road use or grading. This is most confusing and contradictory and certainly has not been made clear to the public. Certainly trail use has a lower impact than road use.

**RECOMMENDATION:** OHV Trails and their use is low impact and have been addressed in the recent Travel Management Plans on Forest Service lands and should be listed solely under Category A low impact along with road grading and paving.

### **14- OHV Trails are Decreasing and have Already Been Fully Analyzed**

Considering that thousands of miles of OHV trails have recently been closed in California during the recent and ongoing Forest Service Motorized Travel Management Plan, it would be appropriate to state that OHV impacts have been drastically reduced.

The proposal seeks to analyze and restrict OHV trail usage and maintenance apparently due to a mistakenly thinking that OHV trails are expanding. The Forest Service has recently analyzed all existing OHV routes for proper grades and compliance to hydrology. The State proposal would require the Forest Service to redo the work that is already documented in thousands of pages of EIS statements for each National Forest.

Furthermore the footprint of all OHV trails on California National Forest is less than 0.01% of National Forest Lands. It seems unlikely that this small footprint is causing much of an impact or warrants any additional oversight beyond the many existing regulations and criteria that they already must comply with.

**RECOMMENDATION:** It is unreasonable to require the Forest Service to re analyze the OHV trails system that has just been fully analyzed for hydrology and many other aspects. OHV trails should not have any requirement to seek waivers, be further analyzed or studied.



## 15- State Water Board Increased Objectives and Regulations will discourage projects and reduce water quality

The document states:

*9. Many of the roads managed by USFS are in poor repair, contributing significantly to sediment discharges, and **USFS does not have sufficient funding to provide the necessary road maintenance.***

**Surely the problem is not a lack of objectives, BMPs or regulations, but too many consuming funding and staff which could otherwise be used for actual on the ground projects to reduce erosion and sedimentation thereby improving water quality.**

**RECOMMENDATION:** The State Water Board should not be creating newer stronger anything, but removing the existing obstacles so projects can be done more quickly and efficiently; to reduce the backlog and get more roads maintained.

For those who would say if the roads cannot be maintained then remove them, let us remember that it is far more costly to remove a road than to maintain it, so if the Forest Service lacks the funding to maintain then they do not have the funds to remove them. Besides many of these roads are needed for recreation, forest health management and fire fighting. We must all work together to help the Forest Service be more efficient and reduce the backlog of maintenance in order to help protect water quality.

## 16- Impaired Water Body 303(d) listing program has problems

The State Water Board proposes to enhance the Impaired Water Body 303(d) program, however in our prior comments dated 12/14/09 to the State Water Board we noted that Lake Isabella has been listed as impaired even though the causes of the changed PH and nutrients in the lake and associated fish die offs were due to natural causes from wildfire runoff, as documented in letters and reports also submitted by the Forest Service to the State Water Board.

**RECOMMENDATION:** The State Water Board needs to focus their efforts to ensure that all water bodies currently rated by them as impaired have not been done so due to natural causes and release those which have been rated impaired due to natural causes.

## 17- Current Factual Information has not been Supplied by State

The Sequoia National Forest Service on 3/13/09 provided the State Water Board with factual information as to why Lake Isabella is not impaired. The State Water Board has not delisted Lake Isabella and we are not aware of the State Water Board responding to the Forest Service or providing any factual information regarding why the Lake is still listed. Given this it appears unlikely the State Water Board will be able to comply with their following statement:

*In the event that a Regional Water Board or its Executive Officer denies or terminates waiver coverage of an individual project, it must, at the same time, **provide USFS with a statement of reasons for that decision, supported by factual information and reasoned analysis.***

## 18- Maximum Benefit to the people of the State violates CEQA

Item #26 of the Proposal States:

*Changes in water quality are allowed only if they are consistent with **maximum benefit** to the people of the State, do not **unreasonably affect beneficial uses**, and do not result in water quality less than that prescribed in water quality control plans or policies.*

Certainly “*maximum benefit*” must be defined as well as “*unreasonably affect beneficial uses*”, in order to determine what the actual ramifications of this proposal would be. For example if the maximum benefit to the people of the State should oppress or delay on the ground projects then this proposal would violate CEQA.

**RECOMMENDATION:** The proposed action cannot be implemented as it currently violates CEQA

## **19- The Proposal Cannot Justify Efficiency & Effectiveness**

The primary justification in this proposal is as follows:

*63. This action meets the requirements of CWC §13269 as follows:*

*a. The Order is in the public interest for the reasons stated at finding 5.*

Here is Finding 5:

*5. Both USFS and Water Boards have **limited resources** to protect water quality and it behooves both entities to make the process for maintaining, protecting and restoring the quality and beneficial uses of water as **efficient and effective** as is feasible.*

It is true we have limited resources and this proposal will double the work of an already over burdened and underfunded Forest Service, which already has to comply with the strictest environmental regulations in the world. It is incorrect for the Water Board to justify increased complexity and inefficiency by erroneously citing effectiveness and efficiency.