



California Regional Water Quality Control Board Lahontan Region



Peter M. Rooney
Secretary for
Environmental
Protection

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Pete Wilson
Governor

CERTIFIED MAIL P 683

Ex B3

October 5, 1998

G. Lynn Sprague, Regional Forester
USDA Forest Service
630 Sansome Street
San Francisco, CA 94111

Dear Mr. Sprague:

APPEAL OF DECISION NOTICE AND FINDING OF NO SIGNIFICANT IMPACT (DN/FONSI) FOR THE STAMPEDE ENVIRONMENTAL ASSESSMENT

Enclosed is a formal appeal of the Decision Notice and Finding of No Significant Impact (DN/FONSI) for the Stampede Environmental Assessment, signed by Acting Forest Supervisor Judie Tartaglia on August 14, 1998. The project is located within the Truckee Ranger District of the Tahoe National Forest (Little Truckee River Hydrologic Unit, Sierra and Nevada counties), and includes harvesting of 4 to 5.8 million board feet of timber over 2,231 acres, and associated actions.

While we support the overall project goals of reducing wildfire risk and improving forest health, we conclude that the project, as currently proposed, fails to respond to certain concerns raised by staff of the Regional Water Quality Control Board (RWQCB), and fails to ensure compliance with State water quality standards. We have therefore determined that this project does not comply with the Management Agency Agreement between the California State Water Resources Control Board and the U.S. Forest Service. Unless the concerns raised by RWQCB staff are addressed, we may require a formal Report of Waste Discharge (including associated fees), and consider issuance of Waste Discharge Requirements, for those portions of the project discussed in the enclosed appeal.

The appeal contains the reasons why we believe the DN/FONSI to be flawed, and our recommendations for supplementing the document in order to ensure compliance with State standards. Please note that we do acknowledge the significant modifications already made to this project to incorporate feasible mitigation measures that address watershed concerns raised by RWQCB staff. John Short of my staff has met with the District Ranger (Ms. Joanne Roubique) to explain that the remaining issue is that the project lacks an adequate monitoring component. It is my hope that you will remand the decision to the Forest Supervisor with instructions to resolve this issue. Working together, I believe that we can resolve the outstanding concerns without the need for formal regulation of the timber harvesting elements of this project by our agency.

California Environmental Protection Agency



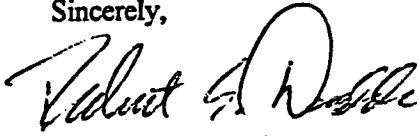
G. Lynn Sprague

- 2 -

October 5, 1998

Please call John Short at (530) 542-5434 if you would like to discuss this matter.

Sincerely,


for HAROLD J. SINGER
EXECUTIVE OFFICER

cc: Regional Board Members
Walt Pettit, SWRCB

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[USFS timber]

California Environmental Protection Agency

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12 California Regional Water Quality Control Board)
13 Lahontan Region)

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15 Appellant,)
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17)

18 Before the Regional Forester, G. LYNN SPRAGUE)
19 USDA Forest Service, Pacific Southwest Region)
20)
21 _____/

**NOTICE OF APPEAL
STATEMENT OF REASONS
REQUEST FOR STAY**

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26 Staff of the California Regional Water Quality Control Board, Lahontan Region
27 (RWQCB) hereby appeal, pursuant to 36 CFR Part 215, the Decision Notice and Finding of No
28 Significant Impact (DN/FONSI) for the Environmental Assessment (EA) prepared for the
29 Stampede timber harvest project located on the Truckee Ranger District of the Tahoe National
30 Forest). The DN/FONSI was signed by Judie L. Tartaglia, Acting Forest Supervisor of the Tahoe
31 National Forest (TNF), on August 14, 1998. This Notice of Appeal incorporates by reference the
32 administrative record on file at offices of the Tahoe National Forest.
33

34 State law assigns responsibility for protection of water quality within the Lahontan
35 watershed basin to the RWQCB. The RWQCB implements and enforces the Porter-Cologne
36 Water Quality Control Act ("Porter-Cologne Act," California Water Code §13000 et seq.) and
37 the *Water Quality Control Plan for the Lahontan Region* (Basin Plan). All forest management
38 projects conducted within the Lahontan watershed basin must comply with all substantive and
39 procedural requirements of the Porter-Cologne Act and the Basin Plan, including narrative and
40 numerical water quality objectives and waste discharge prohibitions.

1
2 The Basin Plan states (in part) that:

3
4 "The discharge, attributable to human activities, of solid or liquid waste materials,
5 including but not limited to soil, silt, clay, sand, or other organic or earthen
6 material, to surface waters of the Little Truckee River HU is prohibited," and:

7
8 "The discharge or threatened discharge, attributable to human activities, of solid or
9 liquid waste materials including soil, silt, clay, sand, and other organic and earthen
10 materials to lands within the 100-year floodplain of the Little Truckee River or any
11 tributary to the Little Truckee River is prohibited."
12

13 In 1981, the U.S. Forest Service (USFS) and the State Water Resources Control Board
14 (SWRCB) signed a Management Agency Agreement (MAA) that recognizes the role of the USFS
15 as a water quality management agency for USFS lands within California. In signing the MAA, the
16 SWRCB "contemplated" that the RWQCBs would forego formal regulation of USFS activities
17 with the potential to result in nonpoint discharges, provided that the USFS implements certified
18 Best Management Practices (BMPs) sufficient to meet all State water quality standards. Where
19 proposed BMPs are insufficient to remove the threat of violating State water quality standards,
20 additional BMPs and/or mitigation measures must be prescribed and implemented as necessary to
21 remove the threat of a violation.
22

23 The Stampede timber harvest project is located within the Little Truckee River Hydrologic
24 Unit, which is tributary to the Truckee River, an interstate water that flows from its headwaters in
25 the State of California to its terminus in the State of Nevada. The water quality of the Truckee
26 River has been adversely affected from a variety of sources, and the River is currently listed as an
27 "impaired" water body pursuant to the federal Clean Water Act, Sections 304(l) and 303(d). The
28 primary constituent of concern is sediment. Several tributaries (including Bear Creek, Squaw
29 Creek, Bronco Creek, Gray Creek, Donner Lake, Boca Reservoir, and Stampede Reservoir) are
30 also on the Section 303(d) list for pesticides, PCBs, and/or sediment. Recent Toxic Substances
31 Monitoring Program information may warrant future 303(d) listing of other tributaries to the
32 Truckee River, including the Little Truckee River, Prosser Reservoir, and Trout Creek.
33

1 For all water bodies on the federal 303(d) list, the Clean Water Act requires that Total
2 Maximum Daily Loads (TMDLs) be developed to address the causes of impairment. The
3 RWQCB has identified the Truckee River watershed (including the Little Truckee River) as one
4 of its highest priority water bodies for TMDL development, and the RWQCB has begun the
5 TMDL development process. The State of California has also recently embarked upon a
6 "Watershed Management Initiative" (WMI). Under this initiative, the RWQCB considers all
7 available water quality and land use data to identify "priority watersheds" to assist in its resource
8 allocation and regulatory decision-making. The Truckee River (including the Little Truckee
9 River) has been identified as one of the RWQCB's highest priority watersheds, and the RWQCB
10 has dedicated substantial resources (both in terms of staffing and grant funding) to address needs
11 in this watershed. In 1996, the RWQCB's consultant completed a "Truckee River Loading Study"
12 that identified forest management activities as a significant contributor of sediment within the
13 Truckee River watershed (CH2M HILL 1996). For all of the above-stated reasons, the RWQCB
14 has a keen interest in forest management activities within the Little Truckee River Hydrologic
15 Unit.

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18 **Reasons for Appeal [36 CFR § 215.14(5)]**

19
20 The RWQCB is appealing this decision because it does not specify and incorporate
21 monitoring adequate to validate USFS staff's assertion that the proposed ground-disturbing
22 activities will not result in adverse cumulative watershed effects. The RWQCB is also appealing
23 this decision because the DN/FONSI fails to take a hard look at, and provide reasoned responses
24 to, issues and concerns regarding validation monitoring as raised by RWQCB staff during the
25 planning process.

26
27 Cumulative watershed effects (CWE). The DN/FONSI documents a high potential for the
28 Stampede project to cause significant adverse cumulative effects to water quality. Cumulative
29 effects include adverse channel responses to peak flows (i.e., erosion caused by infrequent "flood-
30 driven" or catastrophic effects), as well as chronic sedimentation due to more frequent "storm-
31 driven" effects (Reid 1993). While changes in peak flows are difficult to predict, the USFS's CWE
32 model is also useful for quantifying cumulative disturbance levels within a watershed.

1
2 In response to the high potential for adverse CWE, the original project proposal was
3 modified to reduce ground-disturbing activities in sub-watersheds that would exceed the
4 Threshold of Concern (TOC). We recognize the substantial efforts of staff at the Truckee Ranger
5 District to incorporate feasible mitigation into the project in order to reduce Equivalent Roaded
6 Acres (ERAs) in the project watersheds. However, despite the modifications incorporated into the
7 project, cumulative disturbance levels after project implementation would still exceed the TOC in
8 several sub-watersheds.

9
10 Although post-project disturbance levels would exceed the TOC, the TNF asserts that the
11 resultant ground disturbances will not result in adverse CWE. However, no objective information
12 is provided to substantiate the TNF assertion that logging activities resulting in ground
13 disturbance that exceeds the TOC will meet State water quality standards. Staff of the RWQCB
14 have simply requested that the TNF incorporate into the proposal a monitoring program to
15 validate its assertion that its proposed mitigation measures will in fact avoid adverse CWE.

16
17 RWQCB staff recognize that the CWE methodology used by the USFS is not an exact
18 science. However, the current methodology (proposed and developed by the USFS) has to date
19 been accepted by the RWQCB and others as the most current state-of-the-art for predicting
20 adverse CWE on National Forest System lands in California. The current policy direction to
21 USFS field units regarding CWE evaluations states that "susceptibility of CWE generally
22 increases from low to high as the level of land disturbing activities increase towards or past the
23 TOC" (USFS 1988). Because the CWE analysis for the Stampede project clearly indicates that
24 disturbance levels will exceed the Threshold of Concern, a monitoring program is needed in order
25 to validate assumptions made by the TNF that its proposed mitigation measures can in fact avoid
26 adverse cumulative watershed effects.

27
28 The USFS, Pacific Southwest Region, has adopted and is implementing a statewide "Best
29 Management Practices Evaluation Program" (BMPEP) in order to measure and demonstrate the
30 effectiveness of BMPs. From 1992-1996, the BMPEP has gathered and compiled nearly two
31 thousand randomly selected observations of BMP implementation and effectiveness. While the
32 observations gathered by the BMPEP indicate that BMPs are often effective, the BMPEP has also

1 documented significant failures of BMPs to fully meet the objective of meeting State water quality
2 standards. For example, the available data indicate that BMPs were improperly applied and/or
3 judged as being ineffective in nearly 20 percent of all observations. It is impossible to draw firm
4 conclusions based on this data because the BMPEP observations are qualitative, and the USFS
5 has never quantified the level of water quality degradation that occurs due to the 20 percent "not
6 effective" rate. The BMPEP contains a commitment to conduct "in-channel" studies in order to
7 validate the assumption that the visual observations correlate to attainment of water quality
8 standards. However, to date the in-channel studies have not been performed as outlined in the
9 BMPEP. The failure of the USFS to fully implement the BMPEP underscores the need to conduct
10 monitoring to validate the assertion by the TNF that the Stampede project will not result in
11 adverse CWE.

12
13 The DN/FONSI is deficient because the high level of ground disturbance caused by the
14 project may result in the discharge of earthen materials to surface waters tributary to the Little
15 Truckee River, which would violate waste discharge prohibitions contained in the Basin Plan, and
16 which would threaten to violate water quality objectives contained in the Basin Plan. Despite the
17 potential for adverse CWE documented in the EA, the DN/FONSI fails to incorporate mitigation
18 measures sufficient to reduce ERAs below the Threshold of Concern, and it lacks a monitoring
19 program sufficient to validate the assertion by the TNF that adverse CWE will not occur. The
20 TNF has not at any time presented objective documentation to staff of the RWQCB to indicate
21 that violations of the water quality standards currently in effect for the 303(d)-listed Truckee and
22 Little Truckee rivers can be avoided when the TOC is exceeded, as will occur for the Stampede
23 project. In contrast, the current state-of-knowledge indicates that adverse effects to water quality
24 are likely to occur when watersheds are disturbed to the point that the TOC is approached or
25 exceeded, such as would occur for the Stampede project (Reid 1993, USFS 1988).

26
27 RWQCB staff recommended during the planning process that the TNF fully evaluate the
28 feasibility of using alternative log yarding methods in those sub-watersheds that would exceed the
29 TOC. The RWQCB staff comments pointed out that alternative log yarding methods, such as a
30 "cut-to-length" (CTL) yarding system, could potentially be used in areas exceeding the TOC to
31 achieve the vegetation management goals of the project while resulting in significantly lower rates
32 of soil compaction and surface soil disturbance. The TNF responded by incorporating the use of

1 lower-impact log yarding systems in all sub-watersheds that would exceed the Threshold of
2 Concern. RWQCB staff commend the staff of the TNF for addressing this concern.

3
4 Monitoring. RWQCB staff recommended during the planning process that any project
5 that would deliberately cause sub-watersheds to exceed the Threshold of Concern for cumulative
6 watershed effects be accompanied by a detailed monitoring plan that is adequate to demonstrate
7 compliance with State water quality standards. The Stampede project, as proposed in the
8 DN/FONSI, clearly poses a threat of adverse cumulative watershed effects, indicating the need for
9 monitoring to validate the assertion of the TNF that CWE will not occur. In contrast, the water
10 quality monitoring elements contained in the DN/FONSI are limited in scope and unlikely to
11 produce information needed to assess whether adverse effects to water quality have occurred as a
12 result of this proposal in concert with past activities in the area.

13
14 The EA states that the USFS Pacific Southwest Region's BMPEP will be used as a key
15 monitoring tool for this project. While the observational component of the BMPEP has substantial
16 utility for identifying individual practices that are in need of improvement, the BMPEP is not
17 currently capable of evaluating cumulative watershed effects or demonstrating compliance with
18 the Basin Plan's waste discharge prohibitions (cited above) in watersheds that exceed the
19 Threshold of Concern. Furthermore, while the BMPEP evaluations may provide some "after-the-
20 fact" information to improve BMPs for future projects, the sites are selected randomly, and there
21 is no assurance that any of the BMPEP monitoring sites will be located within the subwatersheds
22 that will exceed the TOC under this project.

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25 **Specific changes in the decision sought by Appellant [36 CFR § 215.14(4)]**

26
27 The Appellant requests that the decision be remanded to the Tahoe National Forest, with
28 direction to supplement the DN/FONSI to incorporate a detailed monitoring and reporting
29 program for this project in order to demonstrate compliance with State water quality standards. A
30 more rigorous monitoring program is needed for this project because the TNF proposes to take
31 deliberate actions that would cause the Threshold of Concern to be exceeded for sub-watersheds
32 tributary to a water body listed as impaired for sediment under Section 303(d) of the federal Clean

1 Water Act (i.e., Little Truckee River). At a minimum, the monitoring plan needs to be
2 supplemented to specify sampling locations; detail the timing, frequency, and methods of sample
3 collection and analyses; and list the specific criteria that will be used to judge whether the project
4 has met its objectives. We note that the USFS's own regulations regarding the evaluation of CWE
5 directs USFS field units to conduct monitoring (including implementation, effectiveness, and
6 validation monitoring) adequate to determine the effectiveness of its CWE evaluations (USFS
7 1988). This is especially critical in 303(d)-listed watersheds where a deliberate decision is being
8 made to approach and exceed the Threshold of Concern.

9
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11 **Request for Stay of Decision [36 CFR § 215.10(b)]**

12
13 Pursuant to 36 CFR § 215.10(b), the RWQCB hereby requests a stay of implementation
14 of the decision under appeal, so that staffs of our agencies may resolve the outstanding issues.

15
16
17 **References**

- 18
19 CH2M HILL. 1996. Truckee River Loading Study, 205(j) Program. Final Report prepared for
20 the Lahontan Regional Water Quality Control Board. CH2M HILL, Sacramento, CA. June, 1996.
21
22 Reid, Leslie M. 1993. Research and Cumulative Watershed Effects. General Technical Report
23 PSW-GTR-141. USDA Forest Service, Pacific Southwest Research Station, Albany, CA.
24
25 USFS. 1988. Cumulative Off-Site Watershed Effects Analysis. Forest Service Handbook, R-5
26 Soil and Water Conservation Handbook, Chapter 20. USDA Forest Service, San Francisco, CA.