DRAFT OREGON NPS PLAN 60-DAY INFORMAL PUBLIC REVIEW AND COMMENT

Public Comment Notice issued Monday, August 4, 2014, comments due 5 p.m., Tuesday, September 2, 2014

(September 16, 2014)

COMMENTER	PUBLIC COMMENTS
1. INDIVIDUAL Ex. 6 - Personal Privacy **North Portland, Oregon**	I think your licensing folks need to stop pretending that toxics are in a bubble, like a science fantasy television show - a good example is the 401 license OK being handed over to Ambre and Morrow county for the Boardman coal transfer station. How is the Columbia River not part of this facility? So what will DEQ's response be when there is a barge accident somewhere between Boardman and Port Westward?
2. OREGON TRIBE **Meagan Flier, ENVIRONMENTAL Resources Specialist Natural Resources Department Confederated Tribes of the Grand Ronde**	My concern is that the plan does not address how it prioritizes or whether it considers underserved communities when identifying and prioritizing impaired waterbodies and watersheds. The plan states that "The Integrated Report provides a comprehensive evaluation of water quality throughout the state. The NPS Management Program uses information from the Integrated Report and the 303(d) list of impaired waters to identify the waters and watersheds where pollutants are likely related to nonpoint sources in the watersheds. DEQ then can focus and prioritize 319 program activities to prevent, control, and eliminate NPS pollution." Nowhere does the plan address underserved or tribal communities that may be more affected by NPS pollution in these listed waters than other areas/communities. I am not sure that prioritization by adjacency to underserved communities can be viably implemented into the plan, but I was wondering if such a prioritization was considered in the writing of the draft and whether said consideration might be feasibly implemented into the final plan?
3. FEDERAL AGENCY **Jayne Carlin, Watersheds Unit US EPA, Region 10**	Attached are my detailed comments on the Final Draft 2014 Oregon NPS Mgt Program Plan. The plan is comprehensive. Overall comments are shown below. 1. Oregon needs to explain why the current Plan is being revised. May want to include the need to update the Plan every 5 years and submit for EPA's approval, discuss any major changes from the original plan and how the plan will be updated in the future. 2. Consider where to include the public participation process in the Plan's development—whether to include in the Plan itself or as part of the submittal to EPA. 3. Consider incorporating the 303d new vision and goals into this plan including additional information to be

	incorporated into the Integrated Reports by 2016. 4. Need to provide more detail on the process and criteria used to prioritize waters for protection and restoration. 5. Need to include new information required to be in the TMDL documents ("…as a condition of using § 319 funds to develop TMDLs, the state will include the following supplemental information to support the load allocations specified in the TMDL: (1) an identification of total NPS existing loads and total NPS load reductions necessary to meet water quality standards, by source type; (2) a detailed identification of the causes and sources of NPS pollution by source type to be addressed in order to achieve the load reductions specified in the TMDL (e.g., acres of various row crops, number and size of animal feedlots, acres and density of residential areas); and (3) an analysis of the NPS management measures by source type expected to be implemented to achieve the necessary load reductions, with the recognition that adaptive management may be necessary during implementation.). 6. Explicitly describe how DEQ and other state agencies partner with Tribes to address tribal concerns pertaining to NPS. 7. May want to include a list of acronyms in an appendix or at the beginning of the report. 8. CZARA requires states with approved coastal management programs to implement a set of 56 management measures that reduce NPS pollution. The measures are designed to control runoff from six main sources: forestry, agriculture, urban areas, marinas, hydromodification (such as dams or shoreline and stream channel modification), and wetlands and vegetated shorelines, or riparian areas. Where there is information to indicate that these 56 management measures are not sufficient to attain water quality standards, or protect critical coastal waters, states are required to develop and implement additional management measures. Please revise the highlighted phase to: "Where there is information to indicate that these 56 management measures are not sufficient to attain water quality standards or protect designated uses, CZARA requires that additional management measures be developed." This language reflects that either EPA/NOAA or the state determine the need for additional Management Measures. 9. Since 1998, Oregon has received interim approval on all but two of the (g) Guidance management measures and its strategies for meeting other required elements of the program. The state is also being required by EPA and NOAA to adopt and implement additional management measures for forestry due to the number of 303(d) listed stream segments and the presence of endangered salmon and steelhead species within the CNPCP management area. Please revise the highlighted section to: "The state is also being required by EPA and NOAA to adopt and implement additional management measures for forestry because science indicates that the existing forestry practices are not adequate to protect water quality and designated uses." This language comes from the conditional approval findings and more accurately, captures why the state needs to adopt add Management Measures.
4. FEDERAL AGENCY **Caty Clifton, Water Quality and Water Rights Program Leader** **Pacific Northwest Region,**	EXECUTIVE SUMMARY 1. Pg. 8: Last bullet what are WQ-10 and SP-12 projects and other? This is last item of a list of required plan elements. Last paragraph, last sentence what does "coordinated frameworks" mean, perhaps explain? 2. Pg. 10: 2nd bullet is there an example to include? EPA Key Component #3 and #4. I did not see references to the State IWRS and thought this might be an appropriate section to reference this statewide integrated strategy.

U.S. Forest Service	INTRODUCTION 3. Pg. 13-16: there are 4 sections of bulleted lists identified as activities, principles, priorities and "Promoting watershed protection and restoration". This could be explained and perhaps formatted to clarify what each of the lists mean and how they are related in the plan? 4. Pg. 13: Is the first list of bullets intended to be outputs and outcomes, or characteristics of the plan? The 2nd list of bullets are identified as guiding principles, perhaps these could be written as narrative or with more explanation? 5. Pg. 14: 1st bullet under Priorities, 1st sub-bullet what are the 17 water quality subprograms? 3rd bullet (Agriculture) 1st sub-bullet identifies "45 Focus areas", what are these, is there link or include map? 6. Pg. 15: 4th bullet (Source water protection) – identify agency/department responsible and programs that do this (SWMPS)? 7. Pg. 16: "To Promote Watershed…" leads off another bulleted list, this section might warrant a short narrative to explain how the actions relate? The next paragraph about funding and the CNPCP seems out of place, maybe in a section called Funding for NPS activities. PROGRAM DESCRIPTION 8. Pg. 17 3rd paragraph, are the outcomes and key actions what are shown in Table 1? 9. Pg. 18 Graphic is very helpful though might the subtitle "Decisions and Actions…" be considered Authorities and Programs…? 10. Pg. 21: 2nd complete paragraph: add a header 2013 Activities? Reorganize and move the plan completions to the end, start with "Oregon's total 2013 319-Grant allocation…" funding information first, with staff and then completion of watershed plans? The next three paragraphs are 2013 activities… 11. Pg. 22: TABLE 1 – overall this is an excellent framework for display of NPS plan components, though "Goals" seem to be more like Components or Action Items rather than goals, and "Action/Requirements" more like Descriptions, but this could be semantics. 12. Pg. 23: First record "USFS/DEQ 5-Year Progress Report" should be listed under previous topic heading MAJOR NPS PLANS. 13. Pg. 27: Agricultural activities – "The USFS and BLM will develop and implement…" a grazing strategy – for the USFS the "strategy" already exists in required NEPA planning (LRMP and project) and related monitoring including PIBO and national BMP program, and part of FS-MOU review. The Action/Requirements could incorporate these agency requirements, and Milestone amended with MOU annual and 5-year reviews. 14. Pg. 28: Partnership's. Typo and edits in first sentence. Second paragraph – appreciate recognition of partnerships and federal role, thank-you. 15. Pg. 30: Federal Agencies DEQ/USFS – typo on year should be 2014. DEQ/BLM – change USFS to BLM. 16. Pg. 32: What does "Create a process to develop Integrated Report that complements and supports basin planning efforts" mean; a new integrated report? Please explain and incorporate the following bulleted list as narrative explanation. We support the concept of "integrated plans" to the extent that existing plans and reports can be incorporated by reference, for example the USFS Watershed Condition Framework process, national BMP program, and WQRPs referenced in the 2014 USFS-DEQ MOU. There considerable opportunity for collaboration on basin planning efforts through USFS involvement with interagency/Tribal/Watershed Councils

	and other watershed-based planning and implementation activities. 17. Pg. 33: TMDL and WQ plans – suggest review and edit of this section. Last bullet on the page, Working with USFS…on developing their implementation plans, yes we support, just rephrase this please. 18. Pg. 35: In 3.4.1 Watershed Approach Basin Reports – 2nd paragraph, suggest identifying and including short narrative of the 4 basin reports completed, lessons learned, and basin reports underway? Third paragraph, again the reference to "17 water quality sub-programs…" are these the program areas in Fig 1? What are "…quantitative elements that describe all water quality conditions."? Fourth paragraph explain need for and purposes of LIDAR work. Is it a remote sensing technology that promises improved land and resource mapping for planning and implementing water quality programs? 19. Pg. 36: Section 3.4.2 1st sentence include reference to…approach (DEQ, 2012)? 20. Pg. 43: Section 3.4.6 EPA Plan Elements 1st paragraph states the Nine Elements "…could be used" and references Table 2, which lays out EPA's watershed plan elements. 21. Pg. 44: would this be a new requirement for DEQ to track in updating various plans? Pg. 46: What is "the developed guidance for these elements"? Would this be a DEQ tracking and reporting responsibility as a means of "cross-walking" EPA elements in various plans? MANAGEMENT OF NPS BY LAND USE 22. Pg. 51: 4.1.4 The NPS Program…section seems to be a narrative description of Table 1? I am confused by use of terms "strategies" and "projects". Clarify terminology, link with Table 1, and describe as narrative? 23. Pg. 52: 4th bullet "Develop and implement a programmatic strategy to address agricultural activities on federal lands, such as grazing." See comments Pg. 27. 24. Pg. 54: Section 4.2, again some confusion on my part over terminology, use of "processes", these seem to be programs. 25. Pg. 55: 2nd set of bullets, are these "objectives" ongoing work activities? 26. Pg. 58: 5th bullet – "Work with the USFS and BLM to <u>develop</u> a water quality-monitoring program…" Consider instead "…to <u>evaluate</u> water quality monitoring programs as part of MOU implementation..." We consider the MOU to be our program framework and through annual coordination, the USFS identifies WQRP progress, management measures, monitoring activities and water quality effects. Seventh bullet –the USFS/BLM did document and communicate in the past through coordination on previous MOUs, (i.e. 2010 FS/BLM 5 year progress report) but agree improvements are needed and BMPs are a priority. Bullets 9, 11, and 12 seem to be similar – to establish or develop a process for joint review…" do you mean BLM/FS coordination as part of the reporting and communications expectation in MOUs? Suggest clarification by referencing and emphasizing this part of agreements and encourage joint review. I agree if this is what intended, not new "processes" but coordination of existing programs. 27. Legal Authorities, Priorities, and Objectives detailed in bulleted lists could be synopsized and incorporated by referencing the agreement (post on the web)? 28. Pg. 59: "The MOU identified priorities:" Confused by terminology again, Bullets 2-8 are from the Purpose section in MOU, identify as purposes as stated in MOUs, 1st bullet move and <u>drop or rephrase</u> this as priorities for restoration: the FS MOU <u>does not</u> specify closing and restoration of roads though among the management techniques and options available, this type of work occurs but is not specified in MOU.

	29. Second bullet is fine but among the obligations of the FS/BLM. The next set of bullets is called "The Objectives…in the MOU…" but there are no "objectives" identified in the MOU, these may be components of the MOU that are pertinent to DEQ in reporting to EPA? 30. Pg. 60: Section 4.3.3.1 USFS BMPs – include intranet and reference? Use quotes where appropriate and follow the language excerpted. "The purpose and objectives of the USFS National BMP Program is to provide…" (USFS, 2012). ADD "The objectives of the program are: 31. Pg. 61: …write as written, combine 1st and 2nd bullets…"To establish uniform direction..." 3rd and 4th are fine as written. 4th paragraph says Table 1 contains 2 examples comparing national direction with Regional and State. Which part of Table 1 does this refer to?
5. STATE OF OREGON **Amanda Punton | Natural Resource Specialist Planning Services Division Oregon Dept. of Land Conservation and Development**	1. Pg 17. **General Description of NPS Management Program**. How does DEQ manage or regulate "land use planning". Public education is also not managed or regulated by DEQ. 2. Pg. 20. This is not correct. Counties have authority over rural residential development. 3. Pg. 21 Federal Lands. What are "Oregon specific land use activities"? 4. Pg. 30. *:\WINWORD\Forestry and Forestland Conversion\Conversions MOA Final 2006.doc* This must be a link to a DEQ internal sever. 5. **Pg. 47. 4. Management of NPS by Land Use. "***These programs include the management or regulation of forestry, agriculture, grazing, transportation, recreation, hydromodification, marinas, urban development, land use planning, fish and wildlife habitat, riparian and wetlands protection/restoration, public education, water resources, and other activities that affect the quality of the state's waters."* This sentence is repeated above. See comment on page 17. 6. Page 62. "urban and rural residential "This term is not a good one for describing land use under the authority of city and County DMAs. Commercial, industrial, and municipal development also impacts water quality. 7. Pg. 63. "***4.4.1. TMDL Implementation for Urban and Rural Residential DMAs.*** *In order to better protect water quality and beneficial uses, must be reversed. The city and counties natural resources must be identified and protected first. Then land uses should be located in a manner that both protects and utilizes the natural resources as an integral part of the developed landscape. Urban and rural nonpoint contributing sources need development related controls administered through local land use ordinances. This alternative process has shown that development, mitigation, and in many cases, maintenance costs are less with an increase in quality of life for both humans and fish and wildlife."* This has been cut and pasted from someplace else. The first sentence is not complete and the thing that is being "reversed" is not explained. This statement could be cast to reflect support for existing state land use goals, and rules and with recognition of existing development patterns rather than quoting an academic principal. In the CNPCP TMDL IP Guidance, I suggested replacing it with: "Oregon land use laws and statewide land use goals allow and encourage local governments to preserve natural areas that serve to protect water quality. Goal 6 requires local jurisdictions to comply with state and federal water quality laws." 8. Pg. 63. "*A city or county will need to review, and if required, amend their comprehensive plan and applicable implementing ordinances. It is essential that city and county land use related TMDL Implementation Plan measures are enforced through the local plan and development ordinances. Specifically, revising or adopting*

	the following development ordinances are recommended": This is the key, when is there a requirement? Are there ever requirements outside of NPDES permits? 9. Pg. 64. *These TMDL Implementation Plans are necessary because typically a TMDL only describes what needs to happen and does not set out a schedule for implementing the specific improvements (see applicable TMDL/WQMP for specific requirements).* The pollutant reductions that need to be achieved. 10. Pg. 65. "***4.4.3 State Land Use Planning Goals.*** *Statewide land use goals 11 and 14 also help to reduce the impacts of urbanization on water quality. Goal 11 requires jurisdictions to have public facility plans in place to serve as a framework for urban and rural development. Stormwater management plans are required under Goal 11 for all existing urban areas and when urban areas are expanded."* With populations above 2,500. 11. Pg. 65. *"In addition, the "safe harbor" buffer widths may not provide sufficient shade to meet the temperature TMDL shade surrogates in some instances. A local jurisdiction may determine that they comply with Goal 5 and not Goal 6 or their TMDL. may determine that they comply with Goal 5 and not Goal 6 or their TMDL."* The concept of compliance with Goal 6 is misleading in this sentence. It does not have compliance standards on its own. If a jurisdiction has an acknowledged comp plan, it technically is in compliance with Goal 6. If the plan is under review and the jurisdiction complies with state and federal WQ requirements Goal 6 is satisfied. With respect to a TMDL it is for DEQ to make the call on compliance with WQ laws" Goal 6 has no independent function. 12. Pgs. 65 and 66. [I suggest the rest of this section be deleted or moved. See comment 18:] ~~*A city or county will need to review, and if required, amend their comprehensive plan and applicable implementing ordinances. Specifically, revising or adopting the following development ordinances are recommended:*~~ ~~*Erosion and Sediment Control.*~~ ~~*Stormwater Quantity and Quality Management Control and Treatment.*~~ ~~*Wetland, Riparian, and Other Environmentally Sensitive Areas Protection.*~~ ~~*Hillside Development.*~~ ~~*Floodway and Floodplain Protection.*~~ ~~*Drinking Water Protection (DWP) Overlay Zone for Groundwater Wells.*~~ ~~*It is however important to note that a DMA will still need to meet both the TMDL load allocations and the state land use-planning goals individually. For example, even if a local jurisdiction has adopted a Goal 5 "safe harbor" for riparian and wetland areas protection, the DMA will need to analyze the adequacy of their Goal 5 program in*~~ ~~*meeting their TMDLs, particularly the shade requirements with a temperature TMDL. For most urban areas, the plan.*~~ ~~*[I suggest the rest of this section be deleted or moved. See comment 18.]*~~ ~~*A city or county will need to review, and if required, amend their comprehensive plan and applicable implementing*~~ ~~*ordinances. Specifically, revising or adopting the following development ordinances are recommended:*~~ ~~*Erosion and Sediment Control.*~~ ~~*Stormwater Quantity and Quality Management Control and Treatment.*~~ ~~*Wetland, Riparian, and Other Environmentally Sensitive Areas Protection.*~~

	~~*Hillside Development.*~~ ~~*Floodway and Floodplain Protection.*~~ ~~*Drinking Water Protection (DWP) Overlay Zone for Groundwater Wells.*~~ ~~*It is however important to note that a DMA will still need to meet both the TMDL load allocations and the state land use-planning goals individually. For example, even if a local jurisdiction has adopted a Goal 5 "safe harbor" for riparian and wetland areas protection, the DMA will need to analyze the adequacy of their Goal 5 program in meeting their TMDLs, particularly the shade requirements with a temperature TMDL. For most urban areas, the* riparian areas are degraded and may contain very few trees. In addition, the "safe harbor" buffer widths may not~~ ~~provide sufficient shade to meet the temperature TMDL shade surrogates in some instances. A local jurisdiction may determine that they comply with Goal 5 and not Goal 6 or their TMDL.~~ ~~In order to better protect water quality and beneficial uses, this process must be reversed. The city and counties natural resources must be identified and protected first. Then land uses should be located in a manner that both protects and utilizes the natural resources as an integral part of the developed landscape. This alternative process has shown that development, mitigation, and in many cases, maintenance costs are less with an increase in quality of life for both humans and fish and wildlife.~~
6. CITY **Scott Lazenby, City Manager** **City of Lake Oswego**	1. Thank you for the opportunity to comment on the draft Nonpoint Source Management Program Plan. Briefly, we urge DEQ to allow local governments' compliance with state land use goals 5 and 6 be sufficient for meeting DEQ's requirements for meeting TMDLs, at least as far as land use regulation is concerned. Page 65 of the final draft plan (4.4.3 State Land Use Planning Goals) acknowledges the current situation, which puts local governments in a very difficult position. DLCD, the state agency that is supposed to regulate land use planning by local governments, provides overall goals and objectives for resource protection. It gives local governments some latitude in meeting those objectives, but to avoid the expense and challenge that local governments face in doing their own environmental research, DLCD provides "safe harbor" guidelines for meeting those standards. However, NPS compliance, specifically TMDLs, apparently is not covered in that safe harbor (or at least not "in all instances"). 2. The Oregon land use system has become incredibly complex, convoluted, expensive, time-consuming, and burdensome to local governments and property owners alike. As many hurdles as DLCD puts in our way (and in our city's case, Metro acting as an agent of the state), these should be the **only** state-imposed hurdles we need to overcome in developing our local land use regulations. 3. Again, it is hard enough trying to balance 19 mostly-conflicting state planning goals without having to use the state land use system to meet other departments' objectives that are outside that system.
7. LOCAL GOVERNMENT GROUP **Janet Gillaspie, Executive**	**General Comments** 1. The document is missing the necessary link between water quality standards, applicable TMDLs, demonstrated Best Management Practices, and specific actions and timeframes to institute those BMPs with accountability, and monitoring to determine compliance. 2. Also missing are the efforts and contributions of many private organizations towards restoring Oregon's river

Director **Oregon Association of Clean Water Agencies (ACWA)**	and streams and reducing water pollution from nonpoint sources, including non-regulated stormwater management activities of municipalities and districts, watershed councils, and others. 3. The majority of the current document is a listing of all the programs and administrative reporting linked to NPS efforts. ***There are very few commitments to actually implementing BMP activities shown to reduce pollution per EPA Key Component #1, and they are spread throughout the document.*** 4. In addition, it appears only DEQ lead tasks have any detail about the actions to be taken over the next 5-year plan period. There are no similar commitments from other regulating agencies such as Oregon Department of Forestry (ODF) and Oregon Department of Agriculture (ODA). The Plan seems to be missing the following: ❑ Short term or long term goals ❑ A planning horizon ❑ A full description of funding mechanisms ❑ Evaluation metrics ❑ Milestones and measures of success ❑ Specific numeric goals for pollutant reductions (not vague references to meeting WLAs) ❑ Specific next steps if monitoring data shows that numeric goals for pollutant reduction are not meeting met ❑ Specific assignments by affected agency (federal or state) At a minimum this plan should include: ❑ Additional information and a summary table describing implementation activities of the various programs such as what is provided in: ❑ Water quality standards activities – page 32 bullets ❑ TMDL/WQMP activities – page 34 bullets ❑ The commitment to complete watershed plans for all the state's major basins – page 36 ❑ Toxics Use Reduction priority actions – page 36 ❑ Drinking Water Protection – page 39 ❑ Forest Practices – page 55, 56 (rules changes and new monitoring projects), and 57 (FPA sufficiency /monitoring) ❑ BLM / USFS – page 60 – only MOU evaluation and revision of the 6 RMPs are mentioned as tasks. Many programs are missing real task level commitments including: ❑ Integrated Report (page 32), ❑ Pesticide Permits (page 34), ❑ Pesticide Stewardship Partnerships (page 37), ❑ Groundwater Protection in general other than the GWMAs (page 40), ❑ Coastal Zone on-the-ground efforts (page 42/43), ❑ Agriculture has no ODA commitments (page 48-50), ❑ USFS has no specific actions mentioned (page 57-60). **Improvements Are Needed in Agricultural and Forestry Sector Commitments**

	There is inequitable treatment of Agricultural (ODA) and Forestry (ODF) programs, which are both less stringent then urban/MS4 discharger requirements. For instance: □ Urban and rural sources are required to provide implementation timelines, performance monitoring, measureable milestones, and specific timelines for each practice (page 63) in their TMDL plans. No similar requirements seem to apply to ODA and ODF. The MOUs between the Agencies are also inequitable. The ODA MOU is the latest and weakest with no details on milestones, timelines, accountability and performance reviews, annual meetings of staff, and 5-year MOU reviews. Other MOUs list specific activities to be conducted by the parties over the 5-year term of the MOU. ACWA has long advocated for additional water quality monitoring for agricultural activities affecting water quality and links between that monitoring and the water quality standards and TMDLs to determine if existing BMPs are adequate or if additional efforts are needed. □ The document does not include enough details on the regulatory back up for ODA programs as required by EPA Key component #3 on page 10. □ The document is silent on how program sufficiency will be judged, especially for agricultural programs. There seems to be a much higher level of expectation for actually proving pollution reduction from forestry. ODF is required to do an assessment every 5 years of their program's impacts on water quality (page 15, page 56). Additional similar requirement are needed in the ODA MOU. In addition, we noted that the USFS is over 24 pages long and the ODA MOU is 6 pages. These documents should be consistent in nature and in level of detail. □ As noted in the CZMA discussion with EPA, there needs to be more reporting on agricultural and forestry efforts. The reporting burden is huge for urban DMAs, moderate for ODF, and almost non-existent for ODA. This document should include a discussion on pollutant load reduction modeling as required by Section 319(h) (11). In the 2012 Annual NPS report (June 2013), the State only accounted for 3 of 26 current 319 grant projects (40 ongoing projects) in pollutant load reduction modeling. That is only an 11.5% of the 319 grant projects and does not include any information on reductions for other program activities. At a minimum, all 319 projects should be estimated, and at least some simple spreadsheet type effort should be used to identify reductions for activities across certain geographic areas – such as for the Pesticide Stewardship Partnership programs. The document needs a good editing read-through and formatting, from start to finish. **Summary** To meet Oregon's goals for water quality, strong BMP-based programs, shown to be effective to meet and address specific pollutant problems, with adequate monitoring to know if water quality targets are on track to be met or need improvement, are needed. This report needs substantial revision to clearly set out the targets, responsibilities between agencies, and necessary actions based on water quality targets, not metrics unrelated to water quality improvement, such as number of presentations, number of fact sheets, or newsletter articles. Our detailed comments are attached. **Specific Comments Within the Document** Specific Comments □ Page 8 – "*Water or Waters of the State*" definition in page 8 is different than definition on page 20 that just refers to "*Waters of the State*"

	❑ Page 13/14 – The State should add a priority principle of not just using monitoring to identify nonpoint source effects, but for identifying pollution reduction from NPS related program and BMP efforts. There is some discussion of that topic in certain report sections, but it is not listed as an overarching principle. ❑ Page 22 to 27 - Table 1 – These are all administrative tasks and not real on-the ground activities. This table should be reformatted to include the tasks highlighted in the bullet above. Additional program-specific tasks for each program listed should also be added. ❑ Page 25 – Why under toxics milestones is pesticide reduction a "*where needed*" item? Pesticide elimination and controls should be global efforts throughout the state, as set in the DEQ Toxic Reduction Policy. ❑ Page 26 – There should be a specific task added to establish reporting mechanisms for all grantees or recipients of agricultural support monies. Previously ODA has stated that no such information is "required" for voluntary program participants. ❑ Page 27 – The BLM BMPs text should be replicated and required for the agricultural programs. ❑ Page 28 – Duplicate listing of Agencies from page 7. ❑ Page 30 – The link to the ODF/ODA/DLCD MOA does not work. The DEQ/USFS bullet lists a 5-digit date. The NRCS/OWEB MOU is only an unsigned draft and does not appear to be an accepted document. ❑ Page 31 - Is there a link to the OWEB/USDA MOA mentioned in the text? Isn't CREP funding on the national level rolled into a new grant format? If so, then CREP related sections are no longer accurate and should be updated. ❑ Page 35 – It should be clear that Watershed Plans describe voluntary activities, if that is correct. ❑ Page 46/47 – Table 3 – This is not an analysis table - - this is a check sheet for issues to be discussed in TMDL plans. This table should be reformatted to include the criteria DEQ will use to judge the sufficiency of the actions proposed, not just whether the actions are present or not. ❑ Page 48 – Last sentence of this paragraph could be a little cleaner. O *The Agricultural Water Quality Management Act (ORS 568.900 to 568.933) authorizes ODA to develop Agricultural Water Quality Management (AGWQMP) Area Plans (area plans) and rules throughout the state. If the EQC has determined that a TMDL is necessary for a water body, DEQ establishes a groundwater management area, or an agricultural water quality management plan is otherwise required by state or federal law, ORS 568.909.* ❑ Page 49 – There should be a commitment or link to the water quality monitoring strategy that ODA promised in their 2012 MOU. In addition in the 2012 NPS Plan Annual Report, ODA stated they had 18 compliance cases that were referred or dropped due to inadequate legal authority. This new plan should include an ODA task to acquire new legal authorities to prevent dropping enforcement cases in the future. ❑ Pages 50 to 52 – Only the DEQ tasks for agricultural-related work are listed. What is ODA committing to do other than "tracking compliance"? In addition, DEQ states that improved water quality is a priority on Ag lands, and mentions a need to "*measure*", but the bullet points following this are not measuring anything. ❑ Page 51- ODA states it needs to do a pre-assessment for locations not meeting water quality regulations. Earlier in the report it states that the 303(d) list is used by all agencies. What is unique about the ODA "assessment" and why are they not using the 303(d) list and TMDL analysis similar to other state agencies? ❑ Page 52 - Why is a strategy to control grazing delayed until 2016? If the program has been implemented for over 20 years, why has this large sector not been addressed yet? ❑ Page 57-60 – where are the USFS actions? In addition, the BLM action list seems very slim.

	❑ Page 58 – 7th bullet – What does "*Implementation and effectiveness of BMPs are the legal and policy mechanism for control and management of NPS pollution*" mean? ❑ Page 59 – strikethrough at bottom of the page. ❑ Page 61 – The statement "*The federal CWA does not regulate NPS pollution*" is technically untrue. For instance, large municipal stormwater systems - - a nonpoint source - - are required to have MS4 permits. ❑ Page 62 – The NPS in urban areas discussion should identify that in many jurisdiction's POTW permits also reflect management of non-point source pollution (for many jurisdictions stormwater is routed to wastewater treatment plants), not just by industrial stormwater or MS4 permits. The current statement is inaccurate. In addition, stormwater is not a "pollution source" but a transportation mode for pollutants and runoff is not always polluted. Please adjust language accordingly. ❑ Page 63 – the following statements are oddly worded and potentially inaccurate: ❑ Please clarify in the NPDES bullet at the top that Phase I and II Communities must participate in TMDLs because they are also DMAs. For instance, the City of Portland Bureau of Environmental Services (BES), has a separate TMDL implementation plan distinct from its MS4 required SWMP. They have many items in common, but are different regulatory plans. Other jurisdictions might have similar approaches. Legally the SWMP is created to meet MS4 regulations, not TMDLs. ❑ "*…the SWMP must include BMPs that are necessary to make progress toward applicable TMDL WLAs…"* is misleading. BMPs are created to prevent and reduce all pollution, not just TMDLs, and not as a condition of creating benchmarks. Benchmarks are pollutant load reduction goals. It may be a fine point, but it is significant. We suggest the following rewrite: *For all EPA approved stormwater related TMDL WLAs, Phase I* *Permittees must develop pollutant load reduction estimates (benchmarks) and assess progress towards those benchmarks approximately every five years. In addition, for those waterbodies located within a MS4 Phase I permitted community that do not yet have a TMDL, the permit requires the permittee to evaluate the SWMP's effectiveness in reducing the most recent 303(d) listed pollutants.* ❑ "…WQMP may provide information that the DMA must include in the TMDL implementation plan." Shouldn't the statement be "*will* *Include*" since the purpose of the WQMP is to dictate what issues must be addressed by TMDL plans? ❑ There is a statement that appears to be cut off *"In order to better protect water quality and beneficial uses, must be reversed.*" The same statement is also on page 66. ❑ Page 64 – The statement "*The Oregon TMDL rule requires Phase I and II MS4 communities to prepare a plan to guide implementation of management strategies identified in the TMDL WQMP*" is inaccurate. OAR 340-042-0080 (4) makes that requirement based on the fact that an agency is a DMA, not that an agency is a regulated MS4. TMDL implementation plans should include instream restoration and riparian activities that are legally distinct from the discharge-related regulations authorized by MS4 permits. MS4 jurisdictions in many cases have both MS4 and TMDL plans and reports to account for this legal differentiation. ❑ Page 65/66 – there are multiple sections replicated on these pages. ❑ Page 65 – Each land use goal should be paraphrased before continuing on with discussion. The Goal 6 description

	should be moved to the first paragraph. The success of urban growth boundaries in reducing 'green field' development and reducing sprawl should be added. The discussion about reversing the order of specific land use planning actions within the State's comprehensive land use planning program appears inappropriate and out of place. Also, odd remnant of an editing suggestion… □ Page 66 – The 319 section punctuation is oddly spaced and incorrect. The table 6 intro uses the term "**both**" for a list of 5 issues. □ Page 67 – The pass grants section is too detailed for and not relevant to the plan. □ Page 68 – The "EPA nine-element" comment should be "elements". □ Page 71 – The source loan paragraph (#5) and the priority list paragraph (#7) seem too detailed for this plan and not part of the purpose.
8. FOREST INDUSTRY GROUP **Oregon Forest Industries Council** **Heath A. Curtiss, General Counsel, Director of Government Affairs**	1. On pages 15 and 26 you reference the current Memorandum of Understanding between the Oregon Department of Forestry ("ODF") and the Department of Environmental Quality ("DEQ"). As you know, that MOU was signed in 1998 at the conclusion of protracted negotiations. While there may be room for minor improvements, we are not aware of any major deficiency in the current MOU. In that light, we caution against committing to EPA that Oregon will revise the current MOU, or complete annual and five-year reviews. Instead, we would encourage review of the existing MOU as issues arise, and without any particular timeline or commitment to EPA. 2. On page 25, DEQ proposes that staff review TMDLs and TMDL Implementation Plans every five years. This strikes us as overly-ambitious, and we would encourage you to commit to EPA only that which you can realistically achieve. 3. On page 32 you reference development of a guidance document for antidegradation, and revisions to the water quality standards for turbidity and nutrients. To the extent DEQ intends to proceed with antidegradation policy changes or revisions to water quality standards, we would respectfully request landowner involvement. 4. Finally, on page 54 you indicate that DEQ authority to prescribe forestland BMPs would be "triggered by the failure of the Board [of Forestry] to adopt adequate BMPs to implement TMDL allocations for forestry or to avoid impairment of water quality such that standards are not met." We respectfully disagree, and refer you to our October 7, 2010 letter to DEQ on this count.
9. ENVIRONMENTAL ORGANIZATION **Doug Heiken** **Oregon Wild**	1. Oregon's rivers and streams are critical public resources that deserve steadfast protection from degradation in all forms. Oregon Wild supports stronger efforts to control non-point source pollution, especially from logging, grazing, agriculture, off-highway vehicles, development, mining, and roads. 2. We urge DEQ to stop delegating non-point source pollution regulation to the "captured agencies" (e.g., ODA, ODF) that mostly just promote agriculture and forestry. These agencies are not willing or not equipped to address the well-documented water quality problems from non-point sources. They have been far too slow to adopt necessary regulations to protect water quality. They rely too much on voluntary and incentive-based mechanisms that are inadequate to protect the public interest. In short, these agencies have a strong tendency to protect economic interests instead of protecting water quality. We understand the ODA only responds to citizen complaints. Denying ODA staff authority to take action on WQ violations is a very odd way of protecting water quality.

3. ODF has been on notice for more than 10 years that it needs to do more to protect water temperature, protect small & medium streams, minimize cumulative watershed effects, avoid adverse impacts from road drainage and wet weather road use, provide fish passage, and protect unstable slopes. They have taken baby steps but failed to take the bold steps necessary to protect the public interest in clean water. ODF has talked for years about how to address (or avoid addressing) stream temperature, but ODF has done little to ensure that streams receive their required continuous input of large wood. If ODF's pace of efforts to improve water temperature standards is any indication, all the other known deficiencies will remain unaddressed in 50 years.
4. To fully realize the high standards of water quality that Oregon citizens deserve, DEQ must recognize that streams are functionally inseparable from their watersheds, especially the lands immediately adjacent to streams. Healthy rivers and streams need healthy riparian and stream-side areas that serve a variety of purposes: microclimate buffering, unimpeded movement of organisms, and capture/storage/release of water/energy/nutrients/carbon/ sediment/large wood. (There is a lot in that last "capture/store/release" clause -- take it in). Streamside activities, including roads, logging, grazing, agriculture, too often reduce or remove vegetation so that the streamside area cannot serve these critically important biophysical functions, so water quality suffers as a result.
5. DEQ's non-point source plan is required to identify "the best management practices and measures which will be undertaken to reduce" pollution. The draft plan does not meet this test. The draft plan says:"• Participate in analysis of riparian stand information to determine if large wood recruitment and other riparian functions are being maintained [Cooperate with ODF in creating a timeline during 2014; Continue assisting ongoing analysis]" This does not amount to an adequate plan to address the need to restore and maintain large wood recruitment. Planning to do analysis is not the same as planning to protect water quality.
6. "Enhancement of landslide protections, with rules that require leave trees along slide-prone streams, to slow downstream movement and add large wood to streams." Large wood is needed not just adjacent to and below unstable slopes, but along all streams where the adjacent biophysical setting permits growth of large trees. "... the following questions were addressed [by RipStream] ... Are the FPA riparian rules and strategies effective in maintaining large wood recruitment to streams, downed wood in riparian areas, ..." This aspect of RipStream has not received much attention. It needs more attention in this study and others. It does not appear that ODF plan to do anything with the analysis in the near term. http://www.oregon.gov/odf/BOARD/docs/2014_March/BOFATTCH_20140305_F_02.pdf

Oregon Board of Forestry Work Plan Dashboard

Private Forests Work Plan	Information Gathering	Analysis	Board Discussion / Direction	Recommend / Revisions	Final Decision
Water Quality: Riparian Rule Analysis on Small and Medium Fish Streams					
Water Quality: RipStream Analysis and Results (Downstream, Large wood, Riparian condition)					

7. OAR 340-041-0011 Biocriteria says "Waters of the State must be of sufficient quality to support aquatic species without detrimental changes in the resident biological communities."
This standard represents a powerful tool to regulate activities that have adverse effects on the public's water and fish & wildlife. Forestry and agriculture practices today do not meet this standard because they remove too much

	vegetation and prevent critical functions that support biological communities. For example, dead wood in streams is important to meeting many aquatic and terrestrial wildlife habitat values. Dead wood is also important for ecological services such as the capture, storage and release of water, sediment, and nutrients including, carbon. Most riparian reserves are short of dead wood due to past and ongoing logging, roads, fire suppression, etc. Natural processes of stand growth and mortality will correct this shortage, whereas logging will capture and export mortality and reduce and delay recruitment of wood to both streams and uplands within riparian reserves. This is not a minor short-term effect, but rather a significant long-term effect. Such effects are inconsistent with the biocriteria. Any proposal to log streamside areas must address these factors, develop clear goals, and provide clear linkages between proposed actions and desired outcomes. DEQ should take a broad view of "riparian areas." It is not just the wetland vegetation on the stream bank but includes the full extent of the area where large wood is recruited and the area where microclimate should be buffered/maintained to avoid degrading conditions for riparian dependent organisms, such as salamanders. 8. Riparian areas are widely considered to be important wildlife habitat. Cool air temperatures due to the presence of cool and turbulent surface waters, typically dense vegetative canopy cover, and their location in the lowest portions of watersheds combine to maintain a distinct microclimate along stream channels and in the adjacent riparian area. Maintaining the integrity of the vegetation in these areas is particularly important for riparian-dependent species of amphibians, arthropods, mammals, birds, and bats. 9. …Large quantities of down logs are an important component of many streams. Coarse woody debris influences the form and structure of a channel by affecting the profile of a stream, pool formation, and channel pattern and position. The rate at which sediment and organic matter are transported downstream is controlled in part by storage of this material behind coarse woody debris. Coarse woody debris also affects the formation and distribution of habitat, provides cover and complexity, and acts as a substrate for biological activity. Coarse woody debris in streams comes directly from the adjacent riparian area, from tributaries that may not be inhabited by fish, and from hill slopes. 1994 Northwest Forest Plan FSEIS page 3&4-61. Large wood in streams—preferably whole trees with root wads and all—provides the randomness and dynamic environment that fish absolutely need to survive in the ever-changing waters they occupy. Wood breaks up the current and spreads water sideways across its natural floodplain, creating wonderful, dynamic and necessary diversity while also absorbing energy that could cause serious damage downstream otherwise, such as flooding or unnatural erosion. It sorts gravels during high flows, creating those beautiful spawning gravel beds laid out like blankets among bigger rock. It makes those current breaks downstream of log jams. It provides cooling shade and cover, and slow pools and edge habitat that baby fish need after emerging from those gorgeous gravels to ride out high flows, find food and hide from prying eyes. Decomposing wood and the nutrients it produces jumpstarts that the natural processes critical to insect, animal, amphibian and plant life. Alan Moore, Why Fish Love 'Large Woody Debris.' Trout Unlimited. 2-4-2013. http://troutunlimitedblog.com/large-woody-debris-makes-for-fishy-rivers/ The biological community associated with streams includes a wide variety of wildlife that use the stream, but do not necessarily live in the water. The Northwest Forest Plan EIS discloses that there are 199 species (not including fish) that are associated with late-successional and old-growth forests and riparian areas, including 13 amphibians, 38 birds, 29 mammals, and a wide variety of non-vertebrates. Table FSEIS page 3&4-11, page 3&4-62. Current amounts of large woody debris in coastal streams of Oregon and Washington are a fraction of

	historical levels (Bilby and Ward 1991, Bisson et al. 1987, NRC 1992). … Stream surveys by private timber companies and federal land management agencies in the Northwest reveal an overall loss of stream habitat quality (FEMAT 1993, Kaczynski and Palmisano 1993, Wissmar et al. 1994) that is strongly related to changes in riparian vegetation, especially harvest of merchantable riparian timber. Everest, Fred H.; Reeves, Gordon H. 2006. Riparian and aquatic habitats of the Pacific Northwest and southeast Alaska: ecology, management history, and potential management strategies. Gen. Tech. Rep. PNW-GTR-692. Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. 130 p. http://www.fs.fed.us/pnw/pubs/pnw_gtr692.pdf 10. **Large Wood** Large quantities of downed trees are a functionally important component of many streams (Swanson et al. 1976; Sewell and Luchessa, 1982; Sewell and Froggat, 1984; Harmon et al. 1986; Bisson et al. 1987; Maser et al. 1988; Naiman et al. 1992). Large woody debris influences channel morphology by affecting longitudinal profile, pool formation, channel pattern and position, and channel geometry (Bisson et al. 1987). Downstream transport rates of sediment and organic matter are controlled in part by storage of this material behind large wood (Betscha 1979). Large wood affects the formation and distribution of habitat units, provides cover and complexity, and acts as a substrate for biological activity (Swanson et al. 1982; Bisson et al. 1987). Wood enters streams inhabited by fish directly either from the adjacent riparian zone from tributaries that may not be inhabited by fish or hill slopes (Naiman et al. 1992). Large wood in streams has been reduced due to a variety of past and present timber harvesting practices and associated activities. Many riparian management areas on federal lands are inadequate as long term sources of wood.… 11. **Riparian Ecosystem Components** Riparian vegetation regulates the exchange of nutrients and material from upland forests to streams (Swanson et al. 1982; Gregory et al. 1991). Fully functional riparian ecosystems have a suite of characteristics, which are summarized below. Large conifers or a mixture of large conifers and hardwoods are found in riparian zones along all streams in the watershed, including those not inhabited by fish (Naiman et al. 1992). Riparian zone-stream interactions are a major determinant of large woody debris loading (House and Boehne 1987; Bisson et al. 1987; Sullivan et al. 1987). Stream temperatures and light levels that influence ecological processes are moderated by riparian vegetation (Agee 1988; Gregory et al. 1991). Streambanks are vegetated with shrubs and other low-growing woody vegetation. Root systems in streambanks of the active channel stabilize banks, allow development and maintenance of undercut banks, and protect banks during large storm flows (Sedell and Beschta 12. 1991). Riparian vegetation contributes leaves, twigs, and other forms of fine litter that are an important component of the aquatic ecosystem food base (Vannote et al. 1980).1993 FEMAT Report, pp V-13, V-25. Shade is another important function of riparian vegetation. Riparian vegetation: (a) helps shade the water surface from direct solar insulation, (b) it shades soils and shallow groundwater before it is discharged to surface streams; (c) it reduces wind penetration and air mass mixing over the water surface, insulating the stream from summer daytime warming or winter night time cooling, and (d) it stabilizes streambanks and floodplain surfaces and provides a supply of downed wood that helps keep channels narrow and establishes and maintains internal hydrologic complexity (vertical and lateral flow exchange between surface water and hyporheic waters) that buffers stream temperature against the effects of solar insulation and air mass mixing.

10. ENVIRONMENTAL ORGANIZATION **Nina Bell, J.D., Executive Director** **Northwest Environmental Advocates**	1. How is it that DEQ could write so many words and say so little? What purpose is served by asking the public to wade through so many pages of nothing? What, precisely, is the point of this Nonpoint Source Management Program Plan other than just meeting EPA's demand for an updated plan? Plans, plans for more plans, reports on spending federal and state money to restore that which private landowners are not prevented from continuing to destroy...this plan is the epitome of bureaucrat nonsense. In addition, given that nonpoint sources are the primary source of so much of Oregon's water quality problems, it is a real picture of DEQ's fiddling while Rome burns. 2. Our bottom line is this: what is the point of spending taxpayers' money patching up a small number of stream miles when Oregon's regulatory program to protect and restore streams from nonpoint sources is an utter failure? It's like putting a band-aid on a scratch when the patient is bleeding to death. 3. **What the Plan Should Look Like** DEQ has completely missed the point of issuing a nonpoint plan. For that reason we open our comments with a review of the statute and EPA guidance. 4. **The Clean Water Act and EPA Guidance** Pursuant to Clean Water Act § 319(b)(1), Oregon is required to submit a plan to EPA for approval. The contents of this plan are governed by Section 319(b)(2). The plan is required to identify "the best management practices and measures which will be undertaken to *reduce pollutant loadings* resulting from each category, subcategory, or particular nonpoint source designated under paragraph (1)(B)[.]" CWA § 319(b)(1)(A) (emphasis added). These categories are designated in the report that was required to identify "those categories and subcategories of nonpoint sources or, where appropriate, particular nonpoint sources which add significant pollution to each portion of the navigable waters identified under subparagraph (A) *in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements*." CWA § 319(a)(1)(B) (emphasis added). Subparagraph (A) states that this report "identifies those navigable waters within the State which, without additional action to control nonpoint sources of pollution, *cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of this chapter*." CWA § 319(a)(1)(A) (emphasis added). In other words, the plan, of which this draft is one, required in section 319(b) requires the identification of BMPs that are sufficient to reduce the pollutant loadings identified in section 319(a) as contributing to violations of state water quality standards In addition to identifying those BMPs, DEQ is required to identify the programs it will use to implement these BMPs, CWA §319(b)(2)(B), and to set out: A schedule containing annual milestones for (i) utilization of the program implementation methods identified in subparagraph (B), and (ii) implementation of the best management practices identified in subparagraph (A) by the categories, subcategories, or particular nonpoint sources designated under paragraph (1)(B). Such schedule shall provide for utilization of the best management practices at the earliest practicable date. 5. CWA § 319(b)(2)(C). EPA's most recent guidance sets out an update of the nine "key elements" that were discussed in its 1997 guidance. EPA, Section 319 Program Guidance: Key Components of an Effective State Nonpoint Source Management Program (Nov. 2012) (hereinafter "2012 Guidance). With an eye towards the statutory requirements reviewed above, this 2012 guidance says this: 6. "The state program contains explicit short- and long-term goals, objectives and strategies to restore and protect surface water and ground water, as appropriate." 2012 Guidance at 1. The annual milestones should be "specific enough for the state to track progress" and "describe outcomes and key actions expected each year[.]" *Id.* The

	objectives should include "both implementation steps and how results will be tracked [.]" *Id.* 2. "The state uses a combination of statewide programs and on-the-ground projects to achieve water quality benefits; efforts are well-integrated with other relevant state and federal programs." *Id.* at 2. The programs include Total Maximum Daily Loads (TMDLs) and others. *Id.* at 2-3. 7. "The state program describes how resources will be allocated between (a) abating known water quality impairments from NPS pollution and (b) protecting threatened and high quality waters from significant threats caused by present and future NPS impacts." *Id.* at EPA states the program should address "the twin demands of remedying waters that the state has identified as impaired by NPS pollution and preventing new water quality problems from present and reasonably foreseeable future NPS impacts, especially for waters which currently meet water quality standards." *Id.* The latter category would explicitly include waters covered by Oregon's Protecting Cold Water Criterion for temperature. OAR 340-041-0028(11). 8. "The state program identifies waters and watersheds impaired by NPS pollution as well as priority unimpaired waters for protection. The state establishes a process to assign priority and to progressively address identified watersheds by conducting more detailed watershed assessments, developing watershed-based plans and implementing the plans." 2012 Guidance at 4. This process should include a "variety of considerations," *id.* at 4, which are enumerated by EPA, *id.* at 4-5, and which includes the "degree to which TMDL allocations made to point sources are dependent on NPS reductions being achieved," *id.* at 5. 9. "The state implements all program components required by section 319(b) of the Clean Water Act, and establishes strategic approaches and adaptive management to achieve and maintain water quality standards as expeditiously as practicable. The state reviews and upgrades program components as appropriate. The state program includes a mix of regulatory, non regulatory, financial and technical assistance, as needed." *Id.* at 5. EPA has captured these requirements as follows: (i) An identification of measures (i.e., systems of practices) that will be used to control NPS pollution, focusing on those measures, which the state believes, will be most effective in achieving and maintaining water quality standards. These measures may be individually identified or presented in manuals or compendiums, provided that they are specific and are related to the category or subcategory of nonpoint sources. They may also be identified as part of a watershed approach towards achieving water quality standards, whether locally, within a watershed, or statewide; *Id.* In addition, EPA notes the statute requires "A schedule with goals, objectives, and annual milestones for implementation at the earliest practicable date[.]" *Id.* at 6. In short, EPA's guidance reflects the statutory requirements. 10. **Oregon's Plan Ignores the Clean Water Act and EPA Guidance** As is pointed out in the specific comments below, it all boils down to this: nowhere in the plan does DEQ articulate what best management practices are necessary to reduce pollutant loadings from key categories of nonpoint sources to meet water quality standards, with and without TMDLs. Nor does DEQ establish a schedule with annual milestones for implementing these BMPs that reflects the earliest practicable date. It's as simple as that. Until DEQ can clearly set out these BMPs, how it will achieve them, and when it will achieve them, the rest is just filler. That is, in this case, 77 pages of filler. 11. **II. The Content of the Draft Plan**

	The comments below are set out in the order of the plan, with subject headings and page numbers. **2. Introduction** pp. 13-14 The plan states that DEQ uses the list of enumerated "principles" to achieve its goals. Nowhere in this list of seven principles does DEQ state a commitment to using its regulatory authority to control nonpoint source pollution. The most it says is "[w]ork within our existing federal and state authorities," which is simply a statement that DEQ will not exceed its authorities, not a statement that DEQ will use its authorities. The lack of reference to using its authorities makes this document an obvious sham. pg. 14 Carrying on the problem identified immediately above, this overview section of the role of TMDLs is laughable and points to why DEQ is wasting taxpayers' money working on TMDLs that supposedly seek to control nonpoint sources. 12. Bullet 1 Why does DEQ need a guidance document to "identif[y]" the TMDL process? What does that even mean? What DEQ needs is a list of assumptions that are made in TMDLs that can be revealed to the public and be used to ensure that TMDLs across the state are consistent. For example, it is currently not possible to figure out which TMDLs make which assumptions about the temperatures of tributaries and there is no reason why these assumptions differ from one TMDL to another. However, even providing the public with some information about how TMDLs are developed do nothing to identify the BMPs needed to meet the TMDLs and to implement those BMPs. 13. Bullet 2 What does this mean that "TMDLs will be developed to address nonpoint source(s)"? Is this different from what TMDLs are or are not doing now? How precisely does DEQ intend to do this? Where is a schedule by which DEQ will identify the BMPs needed and when they will be implemented and how? How is this consistent with the statute or guidance? 14. Bullet 3 How is this different from the second bullet and what does it mean? DEQ does not have the option of not including nonpoint sources when it develops a TMDL so what's the point of saying this other than to fill up space? 15. Bullet 4 What does DEQ mean by "reasonable assurance"? Is this used as a regulatory term to mean that to allow wasteload allocations to point sources DEQ must demonstrate there is reasonable assurance that its load allocations to nonpoint sources will be met, consistent with 40 C.F.R. § 132.2(i) or is it just filler? Since DEQ does not provide any reasonable assurance now, how can it provide "better" assurance? In addition, more to the point, how can DEQ provide any reasonable assurance at all given that it does not intend to use any of its regulatory powers to achieve nonpoint source control? What is it planning to do that is going to be more successful than the non-success it has achieved to date? 16. Bullet 5 How will DEQ "work[] with DMAs to assure they are meeting TMDL priorities"? First, what TMDL priorities? We are not aware of any TMDLs or WQMPs establishing priorities. Second, what specifically is DEQ planning to do to meet these priorities with the DMAs? Third, what are the BMPs and the schedule for implementing the BMPs to achieve these priorities? Bullet 6 How will the "creation of partnerships between the federal agencies" lead to greater implementation of sufficient BMPs to meet TMDL load allocations? 17. Bullet 7 How will identifying the "lead staff" at DEQ to "work with" state agencies "achieve consistency and efficiency"? More important, what do consistency and efficiency have to do with identifying the BMPs needed to meet load allocations in TMDLs and to get them implemented on as soon as practicable timeframe? How is "[i]dentify[ing] lead staff" sufficiently important to even end up in the plan? At this level of minutiae it is no

	wonder that DEQ never gets around to identifying the BMPs necessary to meet load allocations. 18. Bullet 8 Same comments as bullet four above regarding "better reasonable assurance" since DEQ currently provides no reasonable assurance. What specifically does DEQ have in mind for "additional analysis" that will "guide implementation for existing TMDLs"? What kind of additional analysis? Will this additional analysis lead to identification of BMPs necessary to meet load allocations? If so, when will this happen? If so, how specifically will this result in guiding implementation that is different from the non-implementation currently not taking place? 19. Bullet 9 How does "building relationships with funding agencies" lead to implementing TMDLs? How will "high priority projects" been identified since no TMDL or WQMP currently identifies any priorities? What is DEQ talking about? pg. 14 What does DEQ mean by stating that "[i]mplementation on agricultural lands should be strategic and future actions should be documented in order to demonstrate accountability and to leverage various funding sources"? These are just words; how do they involve identifying adequate BMPs and getting them implemented? Does DEQ really believe that the main problem with agriculture is that progress had not been demonstrated? If so, on what basis does DEQ conclude that the issue is about demonstration rather than a wholesale failure to meet water quality standards or even to implement any BMPs to make progress towards meeting standards? pp. 14-15 How do all these bullet points together result in DEQ identifying sufficient BMPs, coming up with a schedule for their implementation, and getting them implemented? pg. 15 What does DEQ mean by putting in its plan this lofty goal: "Prevent, reduce, eliminate, or remediate nonpoint source water pollution and, where necessary, improve water quality to support beneficial uses on forestlands"? How is this a plan? How do any of the bullets regarding forestry result in identification of sufficient BMPs, a schedule for their implementation, and their implementation? It appears, instead, to leave DEQ in its usual subservient position with regard to the Department of Forestry, providing "assistance and comments, "review[ing] any changes," and the most obscure, "develop[ing] and implement[ing] MOAs or MOUs." So, how does all this paperwork result in identification and implementation of sufficient BMPs to meet load allocations and water quality standards? pg. 16 DEQ asserts that "DEQ ... [u]ses TMDLs to establish NPS pollutant reduction goals." There is absolutely no evidence that this statement is true. Not in this plan nor in any other document. Prove it or stop asserting it. 20. pg. 16 DEQ states that "reduction in Oregon's 319 funds from disapproval of the Coastal Nonpoint Control Plan (CNPCP) would affect DEQ's ability to implement most ,if not all, of the NPS Management Program Plan (see Section 3.4.5 Coastal Zone NPS Management Program for additional information)." We suggest that instead of whining about the potential for federal agencies to follow federal law the way Congress intended, that Oregon use this Plan as an opportunity to spell out precisely how it will meet the requirements of CZARA such that it can keep its funds. 21. **3. Oregon's NPS Management Program** pg. 18 What is a Water Quality Restoration Plan (WQRP)? pp 22-27 Items on these pages regarding the goal of "NPS Implementation" include collecting information and putting it in an annual report, at 23, and "[d]evelop[ing] a spreadsheet and process for DEQ to track and report on landscape condition for achieving TMDL implementation timelines and milestones including water quality status and trends," and putting in an annual report, at 25. Neither one of these is about implementing nonpoint source controls but, rather, about gathering information. In fact, there is nothing in this multi-page chart about implementing nonpoint source

	controls. On page 25, DEQ states that it will "[d]ocument definition of system potential and site capable vegetation," and "[c]onduct effective shade assessments for evaluating implementation to achieve TMDL/WQS goals under area rules and plan." This is not clear. The first apparently is that DEQ will document the meaning of Oregon Department of Agriculture's patently inadequate rules. That's nice but it is unclear what that will achieve and whether DEQ will be clear that the rules are, in fact, inadequate. DEQ's unwillingness to tell-it-like-it-is is pathological and there is no indication that is going to change. Without change, business-as-usual continues with no reduction in nonpoint source pollution. The second item is more confused. Is DEQ stating that it will evaluate whether the ODA rules and plans are sufficient to meet water quality standards and TMDLs? Or will DEQ be in the field assessing the state of implementation of ODA rules and plans? Or will DEQ be in the field assessing compliance with temperature TMDLs? It is impossible to comment on such unclear language. And this is important. Is DEQ planning to do something useful to control agricultural nonpoint source pollution? Or is this a dream? pg. 26 This contains the statement that DEQ will work with ODA to "help develop assessment methodologies for addressing temperature, sediment and sedimentation, bacteria, nutrients, and pesticides." What does this mean? It states that it is in the category of "ODA Area Rule Compliance" so one is led to believe that DEQ will help ODA figure out if farmers are in compliance with the inadequate ODA rules, rules that bear no relationship to water quality standards or TMDLs. 22. What is the point and will this lead to identification of sufficient BMPs and their implementation? DEQ says it will participate with ODF on new rules. What if ODF decides to not pursue new rules? DEQ also states it will participate with ODF in developing "evaluation methods and study designs" to address unanswered monitoring questions, purportedly to "Meet TMDL Load Allocations and Water Quality Standards." Will this address so-called non-fish bearing streams (Type N)? What timeframe is being contemplated for completion of this work? Why doesn't DEQ use its TMDLs to determine this information? Will DEQ petition the Board of Forestry if working together is unsuccessful? What happens if there are no funding sources for this new information gathering process? pg. 28 What is the basis for this absurd and delusional statement? "This infrastructure sets Oregon apart from other states through a direct linkage between plan and need development, funding mechanisms and subsequent monitoring." What is the point of filling up pages in this plan with identical lists of information? Perhaps to disguise, badly, the lack of substance? 23. pg. 29 DEQ sets out a list of MOAs with other agencies and proceeds to summarize their purported attributes. DEQ should, instead, explain in great detail how the MOAs connect the findings of TMDLs with changes in nonpoint source controls. A statement that asserts, *for example*, that an MOA with ODA leads to "collaborative efforts to meet their legal responsibilities related to agricultural NPS pollution, and to help ensure, to the maximum extent practicable, that agricultural activities in compliance with Area Rules do not cause or contribute to exceedances of water quality standards and that implementation of Area Plans TMDL allocations are achieved in agricultural areas," is not helpful and is, in fact, misleading. DEQ should explain precisely how that MOA ensures that the ODA rules are adequate to meet standards and TMDLs. They aren't and DEQ has said as much. But here, in the plan to make things better, DEQ backtracks and makes everything sound like it is under control. This is corrupt. pg. 30 DEQ's assertions about the link between TMDLs and forest practices has no basis in fact. 24. pg. 31 What is the meaning of "baseline" in describing "regulatory statutes"? This is meaningless jargon and should be stricken.

	25. pp. 31-32 The discussion of water quality standards should be stricken. With the exception of the Protecting Cold Waters Criterion, water quality standards have no bearing on nonpoint source controls in this state and even that is in question. Therefore it is misleading to include this discussion as if they do or will in the foreseeable future. pg. 32 Ditto with regard to the 303(d) list and 305(b) report. 26. pg. 33 Ditto with regard to TMDLs. It is factually wrong to state that "load allocations for nonpoint sources ...are ... implemented through the WQMP and TMDL Implementation Plans, Agricultural Area Rules and Plans, Forest Practices Act, Water Quality Restoration Plans, and other planning documents." If DEQ is convinced this is true, then explain how it is. There is, in fact, no evidence that a TMDL has had a single impact on nonpoint source controls; therefore they are not "implemented" with regard to nonpoint sources. They simply gather dust on shelves. DEQ doesn't even use them for some NPDES permits! The same is true of the following related statements: "Working with ODA staff to implement the Agricultural Water Quality Management Act to implement the TMDLs effectively on agricultural lands," "Working with the ODF staff for implementation on state and private forestlands, through the Oregon Forest Practices Act and long-range management plans," and "Working with ODA and ODF to implement their programs to meet TMDL allocations." DEQ certainly works with ODA and ODF staff. DEQ does not work with them to implement TMDLs. The TMDLs are wholly irrelevant to any programs that the state has in place to do something about nonpoint source pollution. pg. 34 See below. Bullet 1 DEQ guidance documents are notorious for the their process. Either DEQ is going to take a lot of EPA guidance documents and then delete some of the text and create a so-called Internal Management Directive that says nothing useful or it will make up policy out of thin air, policy that usually will be proven to be inconsistent with federal law. How is this guidance document going to lead to an change in nonpoint source pollution control? Will it identify BMPs necessary to meet load allocations and establish how they will be implemented? Bullet 2 What is the point of saying this? All TMDLs have to address nonpoint sources. Bullet 3. How can DEQ provide "better reasonable assurance" without having any facts to base such assurance on? How can it do something better that it's never done at all? Bullet 4. What is a "TMDL priority"? Bullet 5. What is the point of "consistency and efficiency" when no agency involved wants to change the status quo and the status quo is what is causing the impairment in the first place? Bullet 6. What is the "additional analysis" needed to "guide implementation for existing TMDLs"? This could be the single most important line in the entire plan and yet it says almost nothing. What is DEQ talking about doing? Bullet 8. How is "measur[ing] and track[ing]" a form of implementation? 27. pg. 34 This section on general permits for pesticides is pointless. Why does it not discuss the fact that the public has no ability to participate in permit coverage under the this permit or even obtain information about who is authorized to discharge under it? Why is there no cross-connection between Endangered Species Act consultations on EPA's authorizations under FIFRA mentioned here? 28. pg. 35 There is no connection between the Basin Reports and nonpoint source control any more than between TMDLs and nonpoint source control. If DEQ thinks otherwise, it should provide some examples. It's nice that these plans [e]ncourage all involved to be flexible" but that has to be one of the more stupid things DEQ has ever said. Yes, by all means, let's introduce *more* flexibility into our non-existent nonpoint source control program. 29. pg. 36 DEQ asserts that it has "developed a comprehensive, integrated approach to address toxic pollutants in the environment. An integrated approach is essential because these pollutants readily transfer from one

	environmental media to another (e.g., mercury can be released to the air, deposit on the land, and run off to the water). DEQ's cross-media toxics reduction strategy is meant to ensure that DEQ is addressing the problem of toxics in the environment in the most effective and efficient way." This is an unpardonable lie. Has DEQ engaged in some pollution prevention approaches, such as collecting old pesticides? Yes. Is this something that could be described as an "integrated approach" that addresses cross-media concerns? No! Where, other than in the analysis portion of the Willamette mercury TMDL has DEQ taken a cross-media approach? Having determined the vast majority of that river system's mercury comes through forestry and agriculture, from air deposition sources, has DEQ increased controls on land disturbing activities? Of course not! DEQ relies on the following three items to prove its point: (1) reducing toxics in retail products, (2) green chemistry, and (3) state purchasing guidelines. DEQ should explain how, precisely, this results in less nonpoint source pollution or delete it. At a minimum, janitorial supplies generally go down sewer pipes, which are point sources. 30. pg. 37 The Pesticide Stewardship Partnerships are good but they are not a substitute for other approaches as well, including implementation of the restrictions mandated by the National Marine Fisheries Service biological opinions on certain pesticides (required as of early this week for some pesticides). This plan also should address the limitations inherent in the Pesticide Stewardship Partnerships that is the places where DEQ has identified that they cannot work (e.g., crops are too diverse and therefore pesticides used are too diverse). DEQ should also discuss that one significant way to prevent pesticides from entering Oregon waters, besides not using them or using less of them, is by maintaining the forested riparian buffers that the state also needs to protect streams from temperatures and sedimentation and other pollutants, such as mercury – see the Willamette Mercury TMDL. pg. 38. DEQ mentions CWA and FIFRA but not ESA. Discussion about use of actual regulatory options is missing. 31. pp. 38-39 Strategies, data, maps, GIS data, inventories, databases ... these do not protect drinking water from nonpoint source pollution. Here's a bulletin: only controls on nonpoint sources protect drinking water. pg. 40 It's nice that DEQ has an "objective of protecting groundwater" but when it encourages and/or allows the distribution of sewage sludge, manure, and excessive fertilizer and wastewater over lands, calls for discharge of municipal sewage to groundwater and hyporheic flows, clearly DEQ's method of protecting is to allow pollution and wait until groundwater is contaminated. Then it can try to come up with a plan to stop additional groundwater pollution in its usual ineffectual way. It's a strategy, just not a good strategy. 32. pp. 41-43 More whining. At least be accurate in your description of the proposed federal action and include concerns about agriculture. Maybe you would like to include here how DEQ had a plan but backed out of it? (MidCoast TMDL). Maybe you want to talk about how so-called non-fish bearing streams have no protections? And small and medium sized fish-bearing streams still don't have protection? Claiming credit for rules that were adopted in 2003 shows how pathetic DEQ's effort has been. 33. pg. 43 The comment that there is a commitment to determine the effectiveness of ODF rules should be amended to note that that may be true so long as nobody questions the standards or the 303(d) listings. The reference to enhancement of landslide protections is misleading. It is unclear to what extent this enhancement was done and the experts have dismissed this so called enhancement as ineffectual to address large wood deficits and to mitigate risk of landslides on clear-cut slopes. 34. Current Board of Forestry consideration of rulemaking is too little, too late. After three years, it is not done and there is no plan to address so-called non-fish bearing streams or waters in Eastern Oregon. What does DEQ plan

	for that? How much of the $93 million purportedly spent on voluntary measures to address older roads was for environmental restoration versus for improvements so that roads could be used? To what does DEQ refer when it states that there are restrictions on delivering sediment to streams from older roads? Is DEQ suggesting, through its reference to Oregon's "strong land-use system" that protecting "working forestlands" makes acceptable polluting streams that flow through these forested lands? If so, please so state. And for whom do these "working forestlands" work? For the fish, the people who fish, amphibians? Being smug is not planning for the future; it's simply defending the status quo. pp. 44-46 Page 44 summarizes EPA's "Nine Key Elements," which are set out in EPA's guidance. On the next page, however, is a chart of a different set of nine key elements that does not correspond to the ones set out on page 44. Instead, that list comes from the EPA Handbook for Developing Watershed Plans to Restore and Protect Our Waters (March 2008), which is cited but has the wrong hyperlink. It is unclear what the purpose of the colorful chart is – particularly considering that *it has no substantive value whatsoever* – when a simple outline would be easier to read. It is even more pointless to summarize EPA's 400-page guidance document in this chart considering that (1) DEQ's response to the chart is to state that yet another chart, Table 3 in the plan, "will be included in the guidance for each example plan and report." What is an "example plan and report"? And if this is going to be put into as-yet-unwritten guidance, why is DEQ spending pages of this plan saying that it isn't doing anything with the content now? And, more important, how is filling out this Table 3 chart in the future indicating now how the nine key elements are being met? *See* page 46 ("The filled –out chart will also indicate how the Oregon NPS Program Plan's goals, actions, milestones and planned actions with associated timelines (i.e. the nine key elements) are or are not included in the TMDL Implementation Plans and Watershed Approach Basin Reports."). And, most important, how does any of this relate to identifying the necessary BMPs and getting them implemented? DEQ appears to be stating that filling out the chart with a "Yes or No" answer will somehow demonstrate that its watershed planning and TMDLs are meeting EPA's key elements. Nothing could be farther from the truth. Instead, DEQ is playing a paperwork game, seeing how many checklists it can create that link one pointless document to another. DEQ has not explained how all this paperwork leads to one iota of nonpoint source control. DEQ has also not discussed the nine key elements of the 2012 EPA guidance. **4. Management of NPS by Land Use** pg. 48 The statement "[w]ater quality standards and TMDL load allocations for agricultural lands should be met through implementation of area plans and enforcement of area rules" is utterly unhelpful. This plan is not supposed to be an updated recitation of the same junk set out in the last plan. It should, instead, explain what is working and what is not and what DEQ is going to do about it. Are the standards and TMDL load allocations being met by the ODA plans and rules? If not, why not? And what will DEQ do? A recitation of all the paperwork that the agencies have completed has nothing to do with whether BMPs have been established that are adequate to meet standards and load allocations and whether those BMPs are being implemented. pg. 49 Reciting what an area plan "must" do is irrelevant to whether it is adequate. Specifically, since the ODA area plans "describe pollution prevention and control measures deemed necessary by the Oregon Department of Agriculture (ODA) to achieve the goal," and this 319 Plan is DEQ's plan, it is DEQ's job to assess here whether the control measures deemed necessary by ODA are, in fact, sufficient to meet standards and TMDLs. Moreover, DEQ should discuss, here, whether voluntary plans are adequate

	to ensure implementation of those controls. To what is DEQ referring when it states that an area plan must "[i]nclude an implementation schedule for measures needed to meet applicable dates established by law." And what is DEQ's assessment of how well this element of ODA plans is working: "a strategy for ensuring that the necessary measures are implemented." pg. 49 Likewise, how well are these MOA elements working: "Support ODA to develop and implement AGWQMP area plans that would, when implemented, achieve TMDL load allocations and water quality standards including groundwater": "Support ODA to develop and ensure compliance of AGWQMP area rules that would, when implemented, help achieve TMDL load allocations and water quality standards." Why does DEQ evaluate forest practices BMPs but does not do the same for agriculture? pg. 50 This section is entitled, *inter alia,* "TMDL Implementation." How does "measur[ing] and report[ing]" "improve water quality on agricultural lands," as asserted in the text? Specifically, how does the preparation of annual report, DMA reporting, documenting implementation actions with ODA, etc. actually result in any control of nonpoint source pollution coming from agricultural lands? Where in this section does DEQ explain how it will be implementing TMDLs on agricultural lands? Is that the part where DEQ says it "*could* include DMA reporting"? How is a possible but not actual reporting going to reduce water pollution? pg. 51 How does DEQ view ODA's "pre-assessment to identify locations likely not meeting water quality regulations"? We already know that ODA's notion of what is adequate to meet water quality standards is not adequate from DEQ's perspective. So, why doesn't this plan acknowledge that difference and discuss what DEQ is going to do about it instead of pretending that DEQ and ODA are in lock step? pg. 51 Repeating that DEQ considers ODA's plans and TMDLs to be "key program[s]" is not helpful to understanding how DEQ uses those to ensure nonpoint sources are controlled sufficiently to meet water quality standards and load allocations. As with all the other references to DEQ's plan to publish a TMDL guidance document, it is unclear why this will be helpful. What gap does DEQ intend to fill that EPA's TMDL guidance does not? How will the development of guidance enhance the ability of TMDLs to actually control nonpoint sources on the ground? This is just filler and plans to increase make-work to avoid doing real work. pp. 51-52 This is all repeated material, none of which explains how these various items will result in increased nonpoint source control. pg. 53 Nothing in this discussion of ODA information gathering explains how this information gathering will increase nonpoint source control or will be used in the future to enhance that control. pg. 54 What is DEQ going to do with its jurisdiction that stems from the need for additional protections required by the Clean Water Act? What is the purpose of reciting provisions of state law that DEQ intends to never use? Perhaps DEQ could explain in this plan why it has not used these provisions. DEQ should explain the meaning of this obviously factually incorrect statement: "The FPA Rules and Best Management Practices (BMPs) protect natural resources including water quality." At a minimum, and only a minimum, the finding of degradation made by the Board of Forestry concerning the impact of logging on attainment of the Protecting Cold Water Criterion is a demonstration that the BMPs do not, in fact, protect water quality. So why is this statement here? What about the TMDLs? Have they also found that FPA BMPs are protecting water quality sufficiently? Instead of reciting how everything is supposed to work, DEQ should discuss how it sees the relationship of TMDLs, which uniformly conclude that all nonpoint sources are contributing too much temperature to Oregon,'s impaired waters and the forest practices, which are not adequate to fix that. It is absurd to have a Plan that keeps referencing the amazing role that TMDLs play in Oregon's nonpoint source controls when there is zero evidence that either DEQ or ODF take TMDL load allocations to forestry into account when establishing BMPs for forestry. pp. 55-56 DEQ should use this discussion on RipStream to explain how it does or

	does not work with the findings of DEQ's completed TMDLs. Are the TMDLs irrelevant? Why did DEQ allow RipStream to move forward without sufficient sites on so-called non-fish bearing (Type N) streams? Why did DEQ allow RipStream to move forward without any sufficient sites on impaired streams? How does RipStream address cumulative impacts of multiple logging sites? What does DEQ make of the 3 of 18 stream reaches that did exceed numeric criteria after harvest? How does that information link with TMDLs? Why does DEQ draw a conclusion about meeting the Protecting Cold Water Criterion for fish-bearing streams but not on so-called non-fish bearing streams? How do they differ in terms of the physics of warming? Why is DEQ limited to using "existing ODF processes" to evaluate the sufficiency of logging practices for "small non-fish-bearing streams, landslide-prone areas, sediment processes, pesticides, and drinking water protection"? Why aren't DEQ processes of any value? And what is the reference to "MidCoast TMDL work" here? How is DEQ using the MidCoast TMDL to evaluate forest practices? How is it helpful to throw in this reference without explaining it? How does the RipStream outcome on state lands square with the TMDLs that have been completed that include state lands? Using bullets and then referencing them by number is not helpful. pg. 57 This list is the most concrete in the entire document but it fails to address the findings of DEQ's own TMDLs and their relationship to forest practices. It is also obscure (e.g., reference to "remaining water quality risks and impacts"). And it is uninformative: "Continue working with ODF to ensure that water quality standards are being met with regard to small non fish-bearing streams, landslide-prone areas, sediment processes, pesticide use, and drinking water sources on nonfederal forestlands." This is just another way of saying, we're doing what we're doing and we're not telling you. What kind of plan is that? pp. 57-58 What is the point of summarizing the MOAs? Why not just attach them and let the reader decide what they do or do not mean? Use this space to discuss the outcomes: were BMPs developed and implemented that are sufficient to meet water quality standards and load allocations? If not, why not? Are the MOAs deficient or just their implementation? Don't just say that the MOA requires BLM to do monitoring; what does the monitoring tell us about the key issues? What have DEQ reviews concluded to date and what is DEQ doing to address the results? pg. 59 What is the point of a "priority" that states "[p]revent, reduce, eliminate, or remediate point and NPS water pollution and, where necessary, improve water quality to support beneficial uses"? How is that a priority in a plan that is ostensibly about *that entire subject*? How is "cooperat[ing] on priorities" a priority? How is it helpful to state that a priority is the "implement[ation] [of] ...practices that collectively ensure attainment of Federal and State water quality standards and TMDL load allocations"? What are the practices and how will they be implemented and how is that a priority in a document that pretends to focus on the use of TMDLs to control nonpoint sources? How will TMDLs be used to determine what those practices should be? Other than the closure of roads and restoration of riparian habitat and wetlands, how will priorities be established within those lands? pg. 60 How will DEQ evaluate the BLM revised RMPs? How will TMDLs and water quality standards come to bear on that review? pg. 61 Why take so much time explaining about the National Core BMPs only to conclude that they are "general and non-prescriptive" and that they "require the development of site-specific prescriptions"? Why is this plan referencing itself? Is this an actual plan or is it just public window-dressing (*see, e.g.,* "The federal CWA does not regulate NPS pollution.")? Why is all this general material here, deep in the document, in lieu of an explanation of how the site-specific BMPs are developed. pg. 62 Why include BMPs for roads but not for riparian protection? Why not compare the federal BMPs for roads with that used on private forest lands? pg. 63 If DEQ is relying on TMDL implementation plans, why not tell the reader how well that has been

	working. Are these plans resulting in any changes in nonpoint source controls? If so, please point them out. What contribution does DEQ review provide to these plans? What gaps are there? Are the plans being implemented? Does any of this result in anything? If so, tell us. If not, explain what DEQ will do about it. It is not helpful to report that Stormwater Management Plans "must include BMPs ... that are necessary to make progress towards achieving the applicable TMDL and wasteload/load allocations. The question is not whether they "must," as that is a matter of law. The question is whether the BMPs are adequate, whether they are being enforced, and what DEQ means when it says "make progress towards." pp. 63-64 It is unclear what purpose this discussion serves. pg. 65 Speaking of DMAs, the plan states that "the [Goal 5] 'safe harbor' buffer widths may not provide sufficient shade to meet the temperature TMDL shade surrogates in some instances. A local jurisdiction may determine that they comply with Goal 5 and not Goal 6 or their TMDL." It is unclear why DEQ notes that a Goal 5 buffer width may not be sufficient to meet TMDLs but DEQ has made no observation at all about agricultural buffer widths, to the extent they even exist (they don't). DEQ wears its fear of the Agricultural Lobby on its sleeves. pg. 66 DEQ's recitation of 319 funding is not helpful in stating its plans for the future. In addition, to be useful, DEQ could reflect on the success of all this funding. Say, perhaps, DEQ could tell us about efforts it has made to go back and check to see what restoration funded with taxpayers' money remains functional. And if not much is, what lessons were learned, if any. pg. 67 What is the point of enumerating past FTE supported by EPA funding? Why not pick, if there are any, the activities supported by EPA that directly led to reductions in nonpoint source pollution. Are there any? pg. 68 What in all of this pertains to ensuring that sufficient BMPs are identified and implemented? The only one that comes close is "[d]emonstration of innovative BMPs" and that is all there is on the subject. The rest is business-as-usual. pg. 69 What does past funding have to do with future plans to control nonpoint source pollution? The plan states that Oregon DEQ reports annually to EPA the progress in meeting milestones, including: C Estimates of loading reductions of NPS pollutants C Improvements to water quality achieved by implementing NPS pollution control practices It does not, however, provide any location for this information. Nor does it establish how DEQ comes by this information. Nor does it project into the future how its new plan will do better. Nor does it present the information in a relative fashion, e.g., whether it represents progress as compared to the amount that is needed to be reduced and how much degradation has occurred elsewhere because there are no nonpoint source controls. pp. 70-76 It is unclear what this recitation of funding sources means for increased nonpoint source controls in the future. pp. 77-78 It is unclear what this list of monitoring efforts means for increased nonpoint source controls in the future. **Conclusion** This document is one of the biggest pieces of garbage that DEQ has published in years.
11. ENVIRON MENTAL ORGANIZATION **Brian Wegener, Riverkeeper**	1. **Urban Forestry for Stormwater Runoff Management** – Oregon Department of Forestry's (ODF) Urban & Community Forestry Program offers communities assistance and guidance in developing urban forestry plans and programs. In 2011 ODF and Oregon Community Trees sponsored a conference on **Community Trees for Healthy Streams 1.** Urban forestry policies can make a significant contribution to nonpoint source management. Specific examples include **Clean Water Services' Tree for All** 2 program and the **City of Portland's Urban Tree Canopy**

Tualatin Riverkeepers	**Program** 3. The City of Tigard has recently received a national award from the American Planning Association for its collaborative process involving diverse stakeholders to revise their tree code 4. The code revisions have a goal of increasing tree canopy in the city to 40% from its current 25%. Using incentives and flexible planning standards, Tigard is successfully protecting significant tree groves in newly urbanizing areas. Urban forestry should be a keystone in DEQ's nonpoint management program. On November 18, Tualatin Riverkeepers, ODF and The Intertwine Alliance are holding a day-long workshop in Tualatin with diverse stakeholder's to review Tigard's innovative process and code revisions and initiate similar processes in other communities. We invite DEQ to participate. 1 http://oregoncommunitytrees.org/home/annual-conferences/conferences/conference-2011/ 2 http://www.jointreeforall.org/ 3 https://www.portlandoregon.gov/bes/63490 4 http://youtu.be/YLaTVRQb_KY **2. Land Use Planning for Stormwater Runoff Management** – In the past few years, Metro and Washington County have approved designation of Urban Reserves and Urban Growth Boundary expansions with little or no consideration of the implications for stormwater runoff. In particular, Urban Reserves designation and UGB expansions have happened on Cooper Mountain where the NRCS soil survey reveals that 100% of the acreage is "Very limited" for "disposal of wastewater by rapid infiltration" and also "Very limited" for "overland flow treatment of wastewater". According to the Natural Resources Conservation Service, "'Very limited' indicates that the soil has one or more features that are unfavorable for the specified use. The limitations generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures. Poor performance and high maintenance can be expected.' DEQ has issued new MS4 permits that require post construction pollution and runoff controls that a. …target natural surface or predevelopment hydrologic functions…; and, b. "Reduce site specific post-development stormwater runoff volume, duration and rates of discharges to the municipal separate storm sewer system (MS4) to minimize hydrological and water quality impacts from impervious surfaces…; and, c. prioritize and include implementation of Low-Impact Development (LID), Green Infrastructure (GI) or equivalent design and construction approaches; and, d. capture and treat 80% of the annual average runoff volume, based on a documented local or regional rainfall frequency and intensity. At the same time that DEQ is issuing MS4 permits that that target hydrology and LID design, Metro, a Designated Management Agency (DMA) in the revised Tualatin TMDL for urban land use decisions is targeting areas for development that make the new post-construction runoff controls geologically impossible. DEQ's nonpoint plan should hold Metro as a DMA accountable for the nonpoint source impacts of their land use decisions. 3. **Development on Steep Slopes –** According to this draft plan, "Local communities are expected and in some cases required to adopt development ordinances…and manage development in hazard prone areas to prevent loss of life and property." Steep slopes are included as an example of a hazard prone area. This Nonpoint Source Management Plan should give clear guidance to local communities on what is expected in development ordinances that eliminate anthropogenic runoff from development on steep slopes. An example of the apparent inadequacies of local plans are Tigard's liabilities for $20-$30 million in infrastructure repairs due to development on the steep slopes of Bull Mountain. 5 (See attached article from The Times.) The recommendation on page 63 of this draft that development

	ordinances are adopted addressing hillside development should include specific language addressing hydrology as 5 http://www.pamplinmedia.com/ttt/89-news/211646-69319-erosion-problems-cut-deep-on-bull-mountain described in the Phase I MS4 permits. Specific guidance on should include restrictions on hillside development including avoidance of steep slopes that causes increased stormwater runoff. 4. **Forest Practices Act Revisions -** As mentioned on pages 55 and 56 of this draft plan, streams on private forests are not as well protected from temperature impacts as streams on state forest lands. Tualatin Riverkeepers appreciates the rule-making actions initiated by the Board of Forestry in the finding of degradation of resources. Attention is also needed to assure that polluted runoff from logging roads is also addressed. **5. Agricultural Water Quality Plans -** Oregon Department of Agriculture has made positive changes in their water quality program to move to more proactive measures, rather than an over-reliance on complaint-driven measures. Implementation is limited to a few watersheds at the current time. In order to accomplish long-term goals (state water quality standards and TMDL allocations) the program needs funding to support implementation beyond a few select watersheds.
12. ENVIRONMENTAL ORGANIZATION **Forrest English, Program Director** **Rogue Riverkeeper**	**Plan lacks required elements** The plan currently out for public comment does not outline which waterways are specifically impaired by NPS pollution, the categories of NPS pollution, the specific BMPs needed to meet water quality standards, specific milestones for implementing these BMPs at the earliest possible date, or a monitoring strategy to evaluate effectiveness. All of these items missing are in fact required elements by section 319 of the CWA as well as EPA Section 319 Program Guidance: Key Components of an Effective State Nonpoint Source Management Program November 2012 (EPA guidance). DEQ needs to clearly identify which waters are impaired by non-point source pollution, "those navigable waters within the State which, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain applicable water quality standards" CWA 319(a)(1)(A). Further, DEQ must identify "those categories and subcategories of nonpoint sources or, where appropriate, particular nonpoint sources which add significant pollution to each portion of the navigable waters" CWA 319(a)(1)(B). DEQ needs to clearly identify specific BMPs that will be used to not only reduce, but to restore water quality that is impaired by NPS or to prevent impairment of additional waters. A State NPS plan "describes the process, including intergovernmental coordination and public participation, for identifying best management practices and measures to control each category and subcategory of nonpoint sources and, where appropriate, particular nonpoint sources identified under subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such category, subcategory, or source" CWA 319(a)(1)(C). With those BMPs selected the plan "identifies and describes State and local programs for controlling pollution added from nonpoint sources to, and improving the quality of, each such portion of the navigable waters" CWA 319(a)(1)(D). BMPs must be clearly tied to the specific categories of nonpoint source pollution of concern and need to be sufficient for the task at hand. DEQ needs to identify a specific annual timeline for implementing the needed BMPs identified to reduce NPS pollution, and that timeline must be implemented as quickly as possible. In other words a "schedule containing annual milestones for (i) utilization of the program implementation methods identified in subparagraph (B), and (ii) implementation of the best management practices identified in subparagraph (A) by the categories, subcategories, or particular nonpoint sources designated under paragraph (1)(B). Such schedule shall provide for utilization of the best management practices at

	the earliest practicable date" CWA 319(b)(2)(C). The current plan lacks sufficient milestones for the EPA to evaluate the success or failure of Oregon's NPS plan. The draft NPS plan contains a Table 1 that is intended to outline milestones for implementation. The table does not in fact identify specific locations or specific BMPs, instead it points frequently to plans that are hoped will identify those goals. For example, Table 1 states that DEQ will "Develop Watershed Basin Status and Action Plans within identified priority watersheds that identify priority problems and waters". For this to meet the requirements laid out by the CWA, the NPS plan should have already identified the priority watersheds for NPS pollution reduction, have identified what type of NPS pollution is the issue, have identified which BMPs are appropriate to reduce that category of NPS within that watershed, and include a timeline for implementation of those BMPs. This overly broad pointing to future planning is common throughout Table 1 across a number of goals and nowhere in the NPS plan are specific basins, watersheds, waterways or BMPs identified as required. DEQ needs to outline a monitoring and evaluation strategy that can determine the effectiveness of the BMPs and implementation strategy that the state must implement and to make changes as needed to increase effectiveness. As outlined in EPA guidance key component #8 a plan "describes a monitoring / evaluation strategy and a schedule to measure success in meeting those goals and objectives". The draft NPS plan does not outline a water quality sampling methodology to evaluate the effectiveness of either the NPS plan BMPs (as the BMPs have not been selected), nor the implementation of the plan itself, or the even the TMDLs. While there is some discussion throughout of evaluating other agencies actions and of small components, there is no discussion of evaluating the NPS plan and its effectiveness as a whole either on the programmatic level or the real world implementation level. The Water Quality Data and Assessments section (page 76 and 77) in fact simply lists some of DEQ's monitoring activities, and lists some potential future monitoring priorities. While we hope some of this data may be useful in measuring success for the goals and objectives of an NPS plan, DEQ does need to describe how these monitoring efforts fit into that monitoring / evaluation strategy and what the schedule is to measure success in meeting those goals and objectives? This is spelled out very clearly in EPA guidance yet ignored entirely in the draft NPS plan. **Partnerships** In large part due to the failures of ODF and ODA the EPA and NOAA have placed the state on notice Oregon's programs are insufficient to meet Oregon's obligations under the Coastal Zone Act Reauthorization Amendments. In particular ODF's inability to implement sufficient protections for stream temperature, and ODA's water quality management plans lacking specific thresholds making implementation and enforcement impossible. EPA guidance specifies that partnerships should be strengthened, not that they should be leaned on in lieu of meeting required plan elements. ODA or ODF having plans for plans does not take away from DEQ the need to have an actual and specific plan to meet NPS plan requirements. **Use of authority** The NPS plan states "Oregon DEQ, in conjunction with the ODF and ODA, has broad authority to prevent and control water pollution from nonpoint sources within the state. Together, these agencies have the statutory authority to: prevent NPS pollution; to adopt additional rules to require implementation of measures as necessary to control discharges from nonpoint sources; to enforce prohibitions on NPS discharges; and to require restoration, as necessary." It is not clear in this document that DEQ is willing to do that and instead relies frequently on ineffective voluntary programs, as yet complete or in some cases identified future planning efforts or worse on the efforts of ODA and ODF. We would strongly urge DEQ to use the described broad regulatory authority to implement clear and

	enforceable rules and to enforce them to restore and prevent further degradation of Oregon's waterways. **Required elements attached** Since a number of the elements identified by EPA guidance and outlined in section 319 of the Clean Water Act are missing, it may be helpful to review these items for consistency. Attached in the email these comments were delivered in are copies of EPA guidance from 2012 and of the Federal Water Pollution Control Act (Clean Water Act). **Conclusion** Rogue Riverkeeper sees a number of areas where the NPS plan fails to meet the requirements laid out in the CWA and EPA guidance as outlined above. Considering the magnitude of NPS pollution issues affecting Oregon's waterways, we urge DEQ to take a more proactive approach that will fully protect the beneficial uses of the waterways that Oregonians depend on. We look forward to a future draft NPS plan that addresses the specifics required.
13. ENVIRONMENTAL ORGANIZATION **Teresa Huntsinger, Water Program Director Oregon Environmental Council**	Experts agree that the greatest pollution source today for Oregon's rivers and groundwater is nonpoint source pollution. Yet the strategies we have in place for managing nonpoint source pollution are weaker than the wastewater permits and other tools we use for point sources. That is why it is important that Oregon's nonpoint source pollution management plan be more than a report to EPA that will sit on the shelf once completed. It should serve as a strategic plan for developing a more effective program, including measurable targets and a plan for evaluating progress. It is rather alarming that the last time the plan was updated was in 2000. We sincerely hope that it will not take another decade before the plan is again updated. We appreciate the opportunity to comment on the draft plan. As we reviewed the document we identified four primary ways it could be strengthened to meet EPA's key components for NPS program plans. 1. The plan lacks explicit objectives and annual milestones that are specific enough for the state to track progress and for EPA to determine satisfactory progress as required in EPA key component #1. It does not describe outcomes and key actions expected to address NPS pollution each year. Many of the items out lined in Table 1 do not actually identify specific actions, priorities, or timelines. For example: a. While we believe the watershed approach basin reports are a valuable tool, the plan does not identify which basins are prioritized for developing these reports, how many will be developed, or whether the basins that already have reports are priority areas for NPS plan implementation. It simply says more will be developed sometime in the next four years. b. There are no basin-specific projects or activities outlined in the plan. c. The plan does not identify how many TMDL implementation plans will be developed, or where. How are EPA and DEQ to determine annually whether adequate progress is being made? 2. The plan is weak on prioritization of waters and watersheds as required in EPA key component #5. We agree that it makes sense to prioritize improving the agricultural water quality program, and DEQ plays an important role in ensuring that ODA's program is effective. This partnership between ODA and DEQ needs to continue to strengthen. However, this nonpoint source plan lacks broader strategic thinking from DEQ about which basins are highest priority and on what types of projects DEQ will focus its staff efforts over time. In addition, it is unclear how ODA's criteria for selecting focus areas and strategic implementation areas relates to DEQ's basin planning and "watershed approach" processes. 3. The plan does not identify specific measures to control NPS pollution and programs to implement them, nor does

	it have a schedule for implementation as required in EPA key component #6. Most of the activities described in the plan are very general and lack a specific schedule for implementation. For example, from Table 1: "Basin specific activities and projects will be prioritized through the various TMDL/NPS program processes"; timeline: 2014-2018. This lack of specificity is consistent throughout the plan, with a few exceptions of specific tasks outlined here and there. 4. The plan lacks a monitoring and evaluation strategy to measure success as required in EPA key component #8. DEQ does not have a water quality monitoring strategy designed to evaluate the effectiveness of TMDL implementation, nor are there strategies for assessing the effectiveness of program components. The draft plan does not include a schedule for measuring success. In addition to these overarching comments, we have comments regarding certain sections of the plan. **Agriculture** We are actively participating in ODA's effort to strengthen the agricultural water quality management program and make it proactive rather than complaint-based. We are encouraged by some of the new ideas proposed, and much more work needs to be done. It is critical for DEQ and ODA to ensure that area rules are sufficient to achieve water quality goals, including TMDL implementation, and are enforced across the state. DEQ staff should independently evaluate whether current ODA area rules are adequate to meet the program's mandate. A sufficiency analysis, similar to the one DEQ and ODF conducted for forestry practices, should be conducted for the agricultural water quality program to assess both 1) compliance with area rules, and 2) progress in achieving the goals in area plans and TMDL load allocations. This analysis will enable the program to focus on priority areas, and track progress over time. Additional resources should be dedicated to scaling up the number of Strategic Implementation Areas and Focus Areas, and supporting projects in both to meet area plan goals and rules. **Toxics** We support the idea of expanding the scope of the Water Quality Pesticide Management Team to include fertilizers. Nitrate contamination of groundwater from fertilizers is a common problem in Oregon. We believe the successful Pesticide Stewardship Partnership model could be applied to projects that engage landowners in voluntarily changing fertilization practices. To incent changing practices on the ground, we support increasing the size and scope of ODA's Fertilizer Research Program to include providing tools and training in addition to research, and providing at least $275,000 in grants annually, funded by increasing the annual fertilizer product registration fee to $50/year. **Groundwater** We agree that DEQ needs to identify areas outside the GWMAs that need additional groundwater protection actions. The new groundwater-monitoring program will help identify those areas. DEQ lacks adequate staff capacity to analyze monitoring results and develop action plans to respond to areas with groundwater quality problems. We also agree that DEQ needs to better coordinate programs with roles in groundwater protection – within DEQ and also with partner agencies such as OHA and OSU Extension Service. An obvious step toward achieving this objective would be to fill the groundwater coordinator position that has been unfilled for many years. **Urban and rural residential** We agree that DEQ needs to establish better coordination between stormwater and TMDL programs. We think the TMDL guidance for urban DMAs will help if it is specific about what is expected from urban DMAs. We are concerned that DEQ currently lacks the staff capacity to provide training to urban DMAs. OEC is currently working on a 319-funded project to create a Low Impact Development guidance manual for Western Oregon. When the guide

	is completed about one year from now, we will provide four trainings. If the timing is right, it would make sense to coordinate these trainings with the proposed training on the guidance for DMAs, since the guidance manual will help DMAs with one component of developing a post-construction stormwater program. The discussion of the coastal nonpoint source management program refers to time-of-transfer onsite septic system inspections. This is a voluntary program. We are curious to know what impact the realtor education program is having, and how DEQ is measuring effectiveness. If the program is not effective at increasing inspections, an inspection requirement may still be needed. In addition, there is a need for a loan and/or grant program to help low-income homeowners repair or replace malfunctioning septic systems. We urge DEQ to focus more of its attention on the nonpoint source program, because it is so critical to improving water quality.
14. NOT ON LIST **LARRY MCALLISTER, OREGON DEQ CWSRF DIVISION**	As you know, the Clean Water State Revolving Fund loan program shares a direct link with Oregon's Nonpoint Source Management Program Plan. In order for the CWSRF program to fund nonpoint source control activities, the proposed project has to be related to activities associated with the NPS Plan. From the CWSRF program rules: *OAR 340-054-0010(20) "Nonpoint source control" means implementation of a nonpoint source control activity under section 319 of the Clean Water Act and 40 CFR ¦35.3115(b) that <u>is included in the department's current Oregon Nonpoint Source Control Program Plan</u>.* Reviewing the draft NPS Plan, we find there are few references to activities the CWSRF program could point to in justifying funding a NPS activity. The draft NPS Plan provides a thorough coverage of partnerships, other management programs that address nonpoint source pollution, coordination with TMDL implementation, various plans, and the involvement with agriculture and forestry. Yet, there is no (or very little) description of the actual types of activities available to prevent, control and mitigate pollution from nonpoint sources. As written, the NPS Plan will be a challenging document for the CWSRF program to utilize as a reference for proposed nonpoint source activities seeking CWSRF funding. To address this concern, the CWSRF program proposes the following revisions to the draft NPS Plan: • Section 6.1 (Clean Water State Revolving Fund) could be rewritten to (1) better identify DEQ's loan program as a valuable and potential source of funding for NPS activities; (2) incorporate specific references that would identify the types of nonpoint source activities eligible for CWSRF funding (such as <u>EPA's 1993 Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters</u>); and (3) reduce the current wording describing the CWSRF program's processes. • **A key omission from previous NPS Plan:** This draft of the NPS Plan has removed a key section in the last version NPS Plan (excerpted and attached below) that clarified the definition of NPS pollution and used an example of NPS pollution involving urban stormwater. This example clarified that activities addressing urban stormwater are part of the overall NPS Plan. Section 1.2 of the previous NPS Plan with its example of urban stormwater issues should be added back into the plan so that the CWSRF Program can fund needed stormwater projects that often lack funding in rural communities. CWSRF is a substantial source of funding to address NPS pollutants via stormwater planning and infrastructure improvements for NPDES permitted facilities (both

wastewater and stormwater) as well as for communities under a TMDL or communities discharging stormwater to a water quality limited water body where a TMDL has not been develop. To remedy this omission, we recommend that the information below be integrated into the rewrite of Section 6.1 noted in the bullet above.

1.2 OREGON'S NONPOINT SOURCES

Nonpoint source pollution is briefly defined in Oregon Administrative Rule 340-41-006(17):

"Nonpoint Sources" refers to diffuse or unconfined sources of pollution where wastes can either enter into or be conveyed by the movement of water to public waters.

This definition deliberately avoids mention of how the pollution might be regulated or controlled, and instead emphasizes the source. Similarly, this NPS Program Plan addresses the causes of NPS pollution regardless of how they might be regulated or controlled, and makes eligible for 319 grant funding and State Revolving Loans any and all activities that evaluate, prevent, reduce, eliminate, or remediate the effects of NPS pollution.

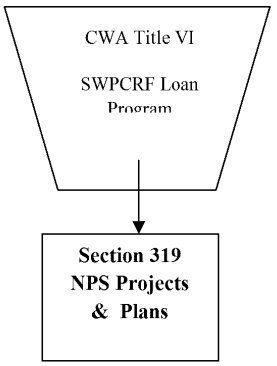
For example Most urban stormwater issues in Oregon are now (or will eventually be) addressed through our NPDES permit-based stormwater program, and the treatment of collected stormwater runoff sometimes involves technology similar to that for treating sewage and other point sources. Nevertheless, stormwater runoff remains essentially a nonpoint source because it fits the definition above. Details of Oregon's NPDES stormwater permit program are not described in this Plan, but activities addressing stormwater runoff are part of the State's overall NPS Program

- In addition to the incorporation of the above information into Section 6.1, this section of the NPS Plan should follow the above information with a highlight of the CWSRF's incentive program the Sponsorship Option and how this incentive can help leverage wastewater infrastructure improvements to fund – at no cost or for a substantially low cost – voluntary projects to improve stormwater quality with stormwater management planning and infrastructure improvements. The Sponsorship Option presents a great opportunity to leverage wastewater infrastructure projects – that typically have stable sources of funding for planning and infrastructure improvements – to fund rural stormwater management planning and infrastructure projects, which typically lack a dedicated funding stream from utility service fees. This could be weaved into the
- Given the funds available to do NPS control work as well as the mandate for the CWSRF to support the implementation of the CWA Section 319, this draft NPS Plan should integrate references to the CWSRF Program as a key resource for implementing this NPS Plan. Basically, anywhere the 319 Grant Program is identified or reference is a location where the CWSRF could be integrated into this document. Specific locations where CWSRF Program can be identified in this document are noted in the comments below.
    - Page 16, modify the 5th bullet from the bottom as follows:

"Administers CWA Section 319 Grant Program and the CWSRF Program and other applicable grants…."

- Page 17, after the second paragraph or integrated into the second paragraph: "Given the level of funding available either through a direct loan or through the program's sponsorship option, DEQ's CWSRF loan program can be an important component of Oregon's NPS Program along with the 319 funds."

- On page 18, in the "Decisions and Actions Related to Planning and Activities" Flow chart, add the following program (below) as well as the "bullet" recommendation to the programs noted in the text box below:



Also, please add the bullet "CWSRF Funding" to the flow charts for the following Programs:

- CWA Sec. 402 NPDES Permitting
- CWA Sec. 303(d) and Oregon (1)(C) & (D) TMDL Rule

- On page 20, at the end of the paragraph 6, DEQ should note the coordination with DEQ's NPS Program and SRF staff to support and fund NPS control planning and projects.

- Page 22, insert the following rows in Table 1 with CWSRF HQ staff providing information for the cells below:

CWSRF Program			
GOALS	ACTION/REQUIREMENTS	MILESTONES	TIMEFRAME
Promote Urban Sponsorship Option projects	Encourage wastewater utilities to apply for a sponsorship option when upgrading or building a new treatment plant to provide funds for NPS Control project	# of Loans	2014 to 2018
Promote NPS Loans	Encourage NPS loans to resolve NPS pollution	# of Loans	2014 to 2018
Promote the Local Community Loan Program	Encourage communities to support their citizens by making CWSRF funding available as a pass-through loan	# of Loans	2014 to 2018

- Page 41, Section 3.4.5: DEQ should note in this section that the CWSRF Program's NPS Loan, Local Community Loan, and Sponsorship Option can be used to fund the management measures noted in the *EPA's Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters*. From CWSRF Program's perspective, it is important to keep this reference to the EPA guidance in the NPS Plan as it provides a great listing of project concepts that CWSRF Program can fund.

- Page 49, Section 4.1.1.1, 1st bullet, change as follows:
  "Leverage and strategically invest funds such as DEQ's Section 319 Grant and CWSRF Loan Program Funds by engaging in local and ….."

- Page 50, Section 4.1.3, add the following to the paragraph in this section:
  "Given the substantial funds that are available in this program, DEQ is looking into ways it can increase the number of NPS control project it funds through the CWSRF Program."

- Page 55, 2nd set of bullets on this page, add the following bullet to this set of bullets:
  "Evaluate opportunities for the how the CWSRF Program can support the Forestry Sector's voluntary measures under the Oregon Plan given recent CWA amendments affecting the state CWSRF Programs."

- Page 64, Section "TMDL Implementation Plan Development", please modify this section as follows:

	Change Subsection title: "TMDL Implementation Plan Development" to "TMDL Implementation Plan Development and Implementation" • Page 64, add the following information to the paragraph in this section: "DEQ's CWSRF Program can be used by DMAs to fund the implementation of management strategies in their current TMDL Implementation Plan using a NPS Loan. Alternatively, a DMA can proactively and voluntarily identify NPS control projects that could be in a future iteration of a TMDL Implementation Plan using the CWSRF's Sponsorship Option if their wastewater utility is planning treatment plant and/or conveyance system upgrades in the near future."