Revision of Plan (15) ~~No Revision of Plan~~ ~~(5)~~ ~~Disagree/ Not Relevant~~ ~~(10)~~

TOP 20-30 PUBLIC REVIEW COMMENTS ON OREGON NPS MANAGEMENT PLAN

RATIONALE FOR SELECTION OF TOP 20-30 COMMENTS:

- **Comment Is Either From EPA or Describes How Plan Can Be Rewritten To Better Meet EPA Requirement**
- **Comment Identifies Missing EPA Plan Requirement**
- **Comment Corrects Mistake**
- **Comment Adds To Better Understanding of Plan**
- **Comment Covers Each Key Section of The Plan**

COMMENTER	COMMENT	INCORPORATE NOW (REASON WHY)	DISAGREE WITH	NOT RELEVANT
1. **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. Nowhere does the plan address underserved or tribal communities that may be more effected 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?*	**EPA NPS Plan Guidance requires the state to ensure the Tribes have the capacity to implement NPS control measures and NPS management program.**		
2. **Confederated Tribes of the Grand Ronde**	More comments to come from Christine Svetkovich, DEQ Tribal Coordinator	**Incor[porat**		
3. **U.S. EPA, Region 10**	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.	**EPA requires states to update their NPS plans every five years to ensure 319 Grant Dollars are still being received annually from EPA.**		

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4. U.S. EPA Region 10	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.	**EPA NPS Plan Guidance requires the state seek public involvement, to comment on significant proposed program changes that helps ensure that environmental objectives are well integrated with those for economic stability and other social and cultural goals.**		
5. U.S. EPA Region 10	Consider incorporating the 303d new vision and goals into this plan including additional information to be incorporated into the Integrated Reports by 2016.	**EPA requires states to Consider incorporate the 303d new vision and goals into the NPS plan including into the Integrated Reports by 2016.**		
6. U.S. EPA Region 10	Need to provide more detail on the process and criteria used to prioritize waters for protection and restoration.	**Provide information on process from DEQ Integrated Report Project Manager.**		
7. U.S. EPA Region 10	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.).	**This important EPA required tasks will be described in the plan with note that progress will be reported into Oregon's NPS Annual Reports.**		
8. U.S. EPA Region 10	Explicitly describe how DEQ and other state agencies partner with Tribes to address tribal concerns pertaining to NPS.	**See response to comment # 1.**		
9. U.S. EPA	May want to include a list of acronyms in an appendix or at the	**Will do. It is in most documents of**		

Region 10	beginning of the report.	**this type.**		

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10. U.S. EPA Region 10	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.	**Will do. Needed for clarification.**		
11. U.S. Forest Service	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?			**X**
12. U.S. Forest Service	EXECUTIVE SUMMARY 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.		**X**	
13. U.S. Forest Service	INTRODUCTION 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?	**These comments need answering to help reader better understand ODA NPS program.**		

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14. U.S. Forest Service	INTRODUCTION 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.	**Both comments are needed. The last comment was intended to be done and will be revised as suggested.**		
15. DLCD	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.* "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."		**X**	
16. DLCD	*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. Pgs. 65 and 66. [I suggest the rest of this section be deleted or moved.		**X**	
17. ACWA	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.	**The crux of the plan's purpose. Needs to be explained better and in some cases section added.**		

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18. ACWA	2. Also missing are the efforts and contributions of many private organizations towards restoring Oregon's river and streams and reducing water pollution from nonpoint sources, including non-regulated stormwater management activities of municipalities and districts, watershed councils, and others			**X**
19. ACWA	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).			**X**
20. OFIC	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.	**It may be possible to add to the ODF/DEQ MOU, if not already there, that the MOU will not be updated unless both parties agree or feel there is a need to do so?**		
21. OFIC	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.			**X** **Need to read letter to determine the need for change to NPS plan.**

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22. Oregon Wild	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.	**Need to better explain the different Oregon legislative adopted authorities of ODA and ODF in relationship to the State and federal water quality laws and regulations. And the ultimate authority of EPA.**		
23. Northwest Environ-mental Advocates	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?	**Explain reasonable assurance in relationship to TMDL load allocations and the NPS program.**		
24. Northwest Environ-mental Advocates	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.		**X**	

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25. CWSRF	(Provided via email)			
26. Tualatin Riverkeepers	Urban forestry should be a keystone in DEQ's nonpoint management program.	**Agree and explain what DEQ is doing.**		
27. Tualatin Riverkeepers	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.			**X**
28. Rogue Riverkeeper	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).	**DEQ needs to identify where/how a specific annual timeline for implementing the needed BMPs identified to reduce NPS pollution, and that timeline must be implemented as quickly as possible**		
29. Oregon Environ-mental Council	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?	**Need to identify basin-specific projects or activities outlined in the plan**		
30. Oregon Environ-mental Council	**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.			**X**