

**MEMORANDUM OF UNDERSTANDING
BETWEEN
UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
AND
STATE OF OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY**

I. INTRODUCTION

This Memorandum of Understanding (MOU) is entered into by and between the State of Oregon by and through its Department of Environmental Quality (hereinafter referred to as DEQ) and the United States Department of the Interior (USDI), Bureau of Land Management, Oregon State Office (hereinafter referred to as BLM) acting by and through the Oregon/Washington (OR/WA) State Director (hereinafter referred to collectively as the Parties) in order to meet State and Federal water quality rules and regulations.

This MOU documents the BLM's and DEQ's strategy for managing and controlling point and nonpoint source water pollution from BLM-administered public lands in the State of Oregon. This MOU also defines the process by which the BLM and DEQ will cooperatively meet State and Federal water quality rules and regulations.

II. OBJECTIVE

- A. PURPOSE: The purposes of this MOU are to ensure that the Parties work cooperatively to address State and Federal water quality rules and regulations for BLM-administered public lands by continuing to:
1. Prevent, reduce, eliminate, or remediate point and nonpoint source water pollution originating from BLM-administered public lands and, where necessary, improve water quality to support beneficial uses.
 2. Cooperate on priorities, strategies, and funding using a watershed approach to protect and restore water quality on BLM-administered lands.
 3. Foster and enhance communication, coordination, and working relationships between the BLM and DEQ.
 4. Identify and implement the BLM and DEQ authorities, policies, programs, and practices that collectively help ensure attainment of Federal and State water quality standards on BLM-administered lands.
 5. Identify, clarify, and support the DEQ and BLM roles and responsibilities specific to water quality in a manner that reduces duplication of work.
 6. Establish a process and timeline for joint review of ongoing watershed protection, restoration, and compliance actions.
 7. Evaluate success in meeting or surpassing water quality goals and requirements.

- B. STATEMENT OF MUTUAL BENEFITS AND INTERESTS: This MOU creates a framework in which the DEQ and BLM can:
1. Effectively cooperate on programs and projects.
 2. Minimize duplication of effort.
 3. Recognize State and Federal point and nonpoint source pollution control requirements on BLM-administered lands.
 4. Develop a common understanding of water quality protection and restoration occurring and needed on BLM-administered lands.
 5. Continue formal designation of the BLM as the Designated Management Agency for nonpoint source pollution control and implementing State and Federal water quality rules and regulations on lands under its jurisdiction.
 6. Build upon prior water quality restoration efforts and continue involvement in supporting, maintaining, and improving water quality to support beneficial uses.

III. AUTHORITIES

- A. Authority for controlling point and nonpoint source pollution is provided in the Federal Water Pollution Control Act [As Amended through P.L. 107-303, November 27, 2002, (33 U.S.C. 1251 et seq. SEC. 101 (a) (7))] (hereinafter referred to as the Clean Water Act, or CWA). The CWA establishes a national framework for protecting and improving water quality. The CWA was amended in 1987 to require states to develop plans for controlling nonpoint sources of water pollution. Oregon's Nonpoint Source Control Program was established in 1978 before the passage of the Section 319 amendments in 1987.
- B. Section 313(a) (33 U.S.C. 1323) of the CWA directs the Federal Government to comply with all Federal, State, and local requirements with respect to the control and abatement of both point and nonpoint source water pollution. Executive Order 12088 reinforced CWA requirements. Section 319(k) of the CWA (33 U.S.C. 1329) specifically addresses nonpoint source pollution by directing Federal agencies to accommodate the concerns of the State regarding the consistency of agency projects with the State's nonpoint source pollution management program.
- C. Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1701, et seq.) and BLM's FLPMA implementing regulations at 43 C.F.R. Part 6100 and Subpart 1610. FLPMA Section 102 states that it is the policy of the United States that public lands will be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values. 43 U.S.C. § 1701(a)(8). FLPMA Section 302 directs the BLM to manage the public lands under principles of multiple use and sustained yield, and in so doing, take any action necessary to prevent unnecessary or undue degradation of the lands. 43 USC § 1732(a), (b). FLPMA Section 202 calls for new or amended resource management plans to provide for compliance with applicable pollution control laws, including state water pollution standards or implementation plans. 43 U.S.C. § 1712(c)(8). FLPMA Section 307 authorizes the BLM enter into contracts and cooperative agreements involving the management and protection of the public lands. 43 U.S.C. 1732(b).

- D. The DEQ's Oregon Nonpoint Source Control Program Plan (2022) is a comprehensive plan for prevention and control of water pollution. It specifies that DEQ will "advise, consult, and cooperate with other State and Federal agencies, affected groups, political subdivisions, and industries in the formulation of a comprehensive plan to prevent and control pollution. The MOUs will be developed to ensure that Federal land management agencies comply with Federal CWA and State water quality requirements and programs."

IV. PROCEDURES

A. BLM RESPONSIBILITIES

1. In managing the public lands, the BLM will strive to protect, restore, and maintain water quality in an effort to ensure that Federal and State water quality standards are met or exceeded to support beneficial uses in accordance with applicable laws and regulations.
1. In managing the public lands, the BLM will incorporate site-specific Best Management Practices (BMP), as specified in standards, guidelines, design features, and mitigation developed in Resource Management Plans (RMP), RMP amendments, project-level plans, and Total Maximum Daily Load (TMDL) Implementation Plans (IPs, formerly referred to as Water Quality Restoration Plans, or WQRPs), to meet applicable water quality standards.
2. The BLM will conduct water quality and BMP monitoring consistent with RMP management direction, project plans, and IPs.
3. The BLM will review and revise BMPs as necessary and appropriate if post-implementation monitoring indicates the BMPs are not effective. New research findings and technology advancements may warrant evaluation or modification of BMPs. Revised BMPs will be included in plan maintenance where appropriate and considered in future planning.
4. The BLM will comply with the TMDL Rule (OAR 340-042-0025 to -0080) in preparation or revision of TMDL Implementation Plans, submitted to the DEQ for review and approval for BLM-administered lands.
5. The BLM will provide data to assist the DEQ's 303(d) listing and delisting process, TMDL development, and water quality reports (e.g., Nonpoint Source Annual Report and 303(d) and 305(b) Water Quality Assessments).
6. The BLM will participate with the DEQ in development of TMDLs for water bodies affected by management practices implemented or authorized on BLM-administered lands.
7. The BLM will coordinate with the DEQ in developing IPs for BLM-administered lands and will revise or adapt, if necessary, IPs to be consistent with both the final TMDL and RMP.
8. The BLM may prepare IPs prior to, concurrent with, or following TMDL development. The BLM may prepare a statewide IP for all lands administered by the BLM in Oregon in lieu of watershed- or TMDL-specific IPs. Site specific, parameter specific, or TMDL specific IPs will be prepared as supplements to the statewide IP in instances where the TMDL/Water Quality Management Plan (WQMP) requirements or objectives substantively differ by TMDL, location, or

parameter. The BLM will coordinate with DEQ to develop and submit a statewide IP and any subsequent amendments within the timeframes set forth in the WQMP (OAR 340-042-0080(4)).

9. In subbasins with 303(d) listed stream(s) where there is not yet a TMDL, the BLM will follow the United States Forest Service (Forest Service)/BLM protocol for addressing Clean Water Act 303(d) listed waters¹.
10. The BLM will work cooperatively with the DEQ to identify and prioritize water quality monitoring, for example, in TMDL preparation and in IP implementation.
11. The BLM will conduct management activities on BLM-administered lands consistent with IPs and applicable RMP management direction and will provide updates and reports to the DEQ on restoration progress according to the IP implementation schedule.
12. Where applicable, the BLM will incorporate the IP goals, objectives, and provisions into activity-level planning including, but not limited to, project planning that includes National Environmental Protection Act (NEPA) analysis and the opportunity for public review. When developing or amending RMPs, the BLM will incorporate management direction that is consistent with the IP's goals and objectives, where appropriate.
13. The BLM will manage water-quality-limited water bodies occurring on BLM-administered public lands to protect and help restore water quality. Management will involve development and implementation of strategies such as BMPs designed to protect and/or help restore water quality conditions when BLM's land management actions affect or have the potential to affect 303(d) listed waters.
14. The BLM will take appropriate first response or corrective action to remedy water quality emergencies (e.g., spills) on BLM-administered lands in accordance with State and Federal rules and regulations. Spills of oil and hazardous materials will be reported to the Oregon Emergency Response System (1-800-452-0311), as required by ORS 466.635 and OAR 340-142-0040, and to the National Response Center (1-800-424-8802), as required by Federal rules and regulations (Clean Water Act 33 U.S.C. § 1321(b)(5); 40 CFR Parts 110 & 302).
15. The BLM or its project proponents will apply for and comply with applicable State water quality permits and certifications.
16. The BLM authorized uses, e.g., timber and rock extraction, will include water quality requirements and conditions as terms of leases and permits issued to third parties, where appropriate under the CWA Section 313 or 401.
17. The BLM will support the Oregon Coastal Nonpoint Source Program (CNPCP) through consideration and incorporation of CNPCP management measures, where applicable and feasible, in the development of agency plans and projects.
18. The BLM will coordinate and work with the DEQ regarding the protection of drinking water sources.

¹ The *FS/BLM Protocol for Addressing Clean Water Act Section 303(d) Listed Waters (The Protocol)*, May 1999, and/or updates are the guidance for meeting these responsibilities. The protocol was signed by the Regional Administrator of the EPA for Region 10 as well as by the Regional Foresters for the Forest Service in Regions 1, 4, and 6, and the State Directors for the BLM in Oregon, Washington, Idaho, and Montana.

19. The BLM will coordinate with the DEQ regarding the declaration of groundwater management areas of concern, groundwater management areas, and appropriate action plans under ORS Chapter 468B.175, 468B.180, and 468B.184 that are located wholly or in part on BLM-administered public lands.
 20. The BLM will review any significant draft DEQ water quality policy or rulemaking with the potential to affect BLM-administered public lands, for example water quality standards, 303(d) listings, the Nonpoint Source Management Program Plan, anti-degradation rules, TMDLs, and point source permits.
 21. The BLM State Office Water Program Lead will participate with the DEQ Forest Water Quality Lead, Nonpoint Source Coordinator, or other assigned DEQ staff on required reporting and review, including TMDL implementation reporting and evaluation of interagency collaboration and effectiveness.
- B. DEQ RESPONSIBILITIES
1. The DEQ recognizes the BLM as the Designated Management Agency for nonpoint source pollution control and implementing State and Federal water quality rules and regulations on BLM-administered lands.
 2. The DEQ is responsible for developing and revising water quality standards, assessing water quality, making impairment decisions, issuing water quality permits and certifications, assessing compliance, enforcing water quality requirements, implementing the 319 grants program, and administering the State Revolving Fund low interest loan program, among other surface water quality and groundwater quality responsibilities.
 3. The DEQ will coordinate with the BLM to collect, submit, and interpret data that can be used to support listing and de-listing of water bodies. Listing and de-listing will be done in accordance with applicable state and federal requirements, including DEQ's Assessment Methodology.
 4. When TMDLs are being developed for areas that include BLM-administered lands, the DEQ will coordinate with the BLM in the development of TMDLs and in the collection of data to support TMDL development.
 5. The DEQ will develop TMDLs for impaired water bodies and submit them to the Environmental Protection Agency (EPA), Region 10, for review.
 6. On request, the DEQ will provide training and technical support to BLM staff on DEQ water quality monitoring protocols and Quality Assurance/Quality Control (QA/QC) guidance as resources allow. The DEQ will communicate any revisions or updates to the QA/QC guidance to the BLM.
 7. The DEQ will notify the appropriate BLM district when emergencies (e.g., spills) occur on or affect BLM-administered lands. The DEQ will coordinate with the responsible BLM officials to develop appropriate corrective action.
 8. The DEQ will provide technical assistance to the BLM, as requested. This assistance may include review and input to RMP development, project design, and analyses; input to inter-disciplinary teams; and review of NEPA documents, as resources allow.
 9. The DEQ will review the BLM's proposed BMPs for the full range of land use activities included in draft RMPs, IPs, and other environmental compliance documents. The DEQ will provide review and comment including, as

appropriate, recommendations for suggested revisions during the public comment period, as resources allow.

10. The DEQ will formally request that the BLM review and comment on significant draft water quality policies or rule-making documents with potential impact to the BLM and/or BLM-administered public lands prior to adoption, for example water quality standards (including antidegradation rules), 303(d) listings, Nonpoint Source Management Program Plans, TMDLs, and point source permits.
11. The DEQ will issue National Pollutant Discharge Elimination System and Water Pollution Control Facility permits and 401 certifications consistent with the DEQ's issuance schedule (Chapter 523 Oregon Laws 2005; ORS 468.065). The DEQ will keep current records of the BLM's permits including dates of issuances and status.
12. The DEQ will acknowledge receipt of a BLM IP within 7 days of receipt. DEQ will also provide recommendations for suggested revisions or indicate acceptance of the IP as soon as possible.
13. The DEQ's Forest Water Quality Lead, Nonpoint Source Coordinator, or other assigned DEQ staff will participate and coordinate with the BLM Water Program Lead on required reporting, including TMDL implementation reporting and evaluation of interagency collaboration and effectiveness.

C. MUTUAL COORDINATION AND RESPONSIBILITIES

1. The Director of DEQ and the OR/WA BLM State Director are the executives responsible for ensuring implementation of this MOU. The Director of the DEQ hereby assigns the primary responsibility to coordinate implementation of the DEQ aspects of this MOU to the Water Quality Administrator. The OR/WA BLM State Director hereby assigns the primary responsibility to implement this MOU to the OR/WA BLM Deputy State Director for Resources, Lands, and Minerals.
2. The DEQ and the BLM will work together toward achieving all water quality standards on BLM-administered public lands within the State of Oregon. Emphasis will be placed upon those water quality standards provisions affecting drinking water and aquatic species including, but not limited to, threatened and endangered species.
3. The DEQ and the BLM recognize the critical role of watershed councils, the Oregon Watershed Enhancement Board, and the public in aquatic habitat restoration and recovery. The Parties will work together to support watershed councils and coordinate to support State directives for water quality and salmonid restoration and recovery.
4. The DEQ and the BLM will coordinate with Native American Tribes, other agencies, and organizations, as appropriate, to address water quality issues, planning, implementation, watershed protection, and restoration activities.
5. The DEQ and the BLM will continue to collaborate on identification and prioritization of water quality restoration projects.

V. ADMINISTRATION

A. MUTUAL AGREEMENTS

1. It is mutually agreed and understood by and between the parties that:
 - a. Resource Commitments: Both the BLM and the DEQ are committed to implementing this MOU. The BLM and the DEQ will work together to seek additional resources, if needed. Each of the Parties operates under its own laws, regulations, and/or policies, and nothing in this MOU alters, limits, or supersedes the authorities and responsibilities of either of the Parties on any matter within their respective jurisdictions. Any commitments in this MOU are subject to the availability of agency resources. Nothing in this MOU will be construed to obligate either of the Parties to payment of money in excess of appropriations authorized by law and administratively available for the work.
 - b. Public Records: Any records that BLM provides in furtherance of this MOU are subject to limitations on public release contained in applicable law, including the Freedom of Information Act (5 U.S.C. § 552) and the Department of the Interior's implementing regulations found at 43 C.F.R. Part 2. Any records that DEQ provides in furtherance of this MOU are subject to limitations on public release contained in applicable law, including Oregon public records laws.
 - c. Modifications: Modifications of this MOU will be made by a written agreement signed by both Parties.
 - d. Participation in similar activities: This MOU in no way restricts the BLM or the DEQ from participating in similar activities with other public or private agencies, organizations, and individuals.
 - e. Commencement/Expiration Date: This MOU is executed as of the date of last signature and is effective through January of 2030, at which time it will expire unless extended.
 - f. Termination: Either of the Parties may, in writing, terminate the MOU in whole or in part at any time before the date of expiration.
 - g. MOU Extension: If the Final Five-Year Report indicates that there is no substantial need for a change in the MOU, extensions can be mutually agreed to for a period of no more than five years.
 - h. Non-Fund Obligor Document: This instrument is neither a fiscal nor a funds obligation document. Any endeavor to transfer anything of value involving reimbursement or contribution of funds between the Parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be executed in separate written instruments and will be independently authorized by appropriate statutory authority. This instrument does not provide such authority. This instrument does not establish authority for noncompetitive award to any third parties who may help implement the purposes of this MOU through contract or other agreement.
 - i. Records Management: The BLM owns the rights to all original copies of the BLM data/records produced as part of this MOU. All records (in all media-paper and electronic) created or produced by the BLM, in part or in whole pursuant to this MOU, will be maintained for the duration of the MOU, and information in those records that is not exempt from public release under applicable law, including the Freedom of Information Act, 5 U.S.C. 552, will

be made available upon request to the DEQ. The DEQ will not retain, use, sell, or disseminate copies of any information that is identified by BLM as covered by the Privacy Act of 1974 or protected from release by the Freedom of Information Act.

B. ISSUE RESOLUTION

1. The DEQ and the BLM are committed to working together to meet the requirements of the Federal and State Water Quality rules and regulations. Should disputes arise, they will be resolved using the process set forth below:
 - The local offices of each agency will evaluate the issue and strive for resolution. This process should take no longer than 30 days. This time may be extended an additional 30 days upon agreement of the Parties if additional time is needed to resolve the issue.
2. If the above approach fails, the local offices will jointly develop a letter and briefing document elevating the issue to the BLM Deputy State Director for Resources, Lands, and Minerals and the DEQ Headquarters Watershed Management Section Manager. The briefing document will:
 - a. Describe the background, including a problem statement of why the issue has not been resolved,
 - b. Describe the alternative solutions including pros and cons, and
 - c. Describe any recommendations for resolution.
3. The Oregon State Office and the DEQ headquarters staff will meet with the local staff for input and discussion to facilitate resolution. This process should ordinarily take no longer than 30 business days.
4. Should the above approaches fail, the issue will be elevated to the attention of the BLM Oregon/Washington State Director and the DEQ Water Quality Division Administrator to discuss and resolve.
5. The BLM and the DEQ may jointly request assistance from other agencies or entities, such as the EPA, at any step in the issue resolution process.
6. Both the DEQ and the BLM will make their best efforts to resolve issues using the process identified above. However, the BLM recognizes the DEQ's authority to enforce State and Federal laws concerning water quality, and nothing in this MOU will be construed to limit that authority. Similarly, the DEQ recognizes the BLM's authority to manage BLM-administered public lands consistent with applicable federal laws and regulations, and nothing in this MOU will be construed to limit that authority.

VI. LIST OF CONTACTS

BLM Project Contact

Michael Brown
OR/WA BLM Water Lead
1220 SW 3rd Avenue
Portland, OR 97204
Phone: 541-999-4226
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DEQ Project Contact

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Forest Water Quality Lead
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BLM Administrative Contact

Todd M. Curtis
Deputy State Director for Resources,
Lands, and Minerals and Fire
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DEQ Administrative Contact

Jennifer Wigal, Administrator
Water Quality Division
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Portland, OR 97232
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E-mail: jennifer.wigal@deq.oregon.gov

VII. REPORTING AND COMMUNICATION

A. Agency Program Lead Meeting

1. An annual program lead meeting will be held between the DEQ Forest Water Quality Lead, Nonpoint Source Coordinator, or other assigned DEQ staff and the BLM's State Office Water Program Lead to review accomplishments and discuss interagency collaboration.
2. The annual program lead meeting should include the review of TMDL implementation reports (see below); emerging issues; joint workload priority; MOU effectiveness; strategies for restoration, local coordination needs, revisions, or updates to monitoring protocols; and QA/QC guidance.
3. Additional program lead meetings could occur, as mutually agreed, to review both the BLM and the DEQ responsibilities identified in this MOU.
4. The outcomes from the program lead meetings should be documented in meeting summaries.

B. Local Meetings

1. The local meetings with BLM and DEQ agency staff may occur at any time. Either the program lead staff or local agency staff may request meetings.
2. The local meetings will be encouraged to resolve issues such as IP scheduling, local water quality problems, or BMP reviews.
3. The program leads will help promote these meetings, attend whenever possible, and disseminate findings and decisions.

C. TMDL Implementation Reporting

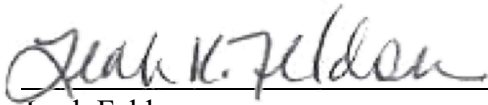
1. The BLM and the DEQ will hold annual meetings to review the progress toward targets outlined in IPs. BLM will submit written implementation reports as required by TMDLs, annually or otherwise as specified. Reports can be statewide with subsections for specific TMDLs/basins. Every five years, the BLM will submit a comprehensive written summary of target achievements related to these IPs and will engage with the DEQ in a review to assess the accomplishments and effectiveness of actions taken. This review will also involve making necessary adjustments to targets and terms. These measures will fulfill the DEQ's TMDL reporting requirements (OAR 340-042-0080), as well as any reporting obligations under the Clean Water Act and Safe Drinking Water Act.
2. The Agencies will provide updated contact lists to include the DEQ Basin Coordinators, Nonpoint Source Coordinator, and Forest Water Quality Lead along with BLM State and District Water Program contacts, as needed.

D. Five-Year MOU Review

1. During the fifth year of implementation, the Parties will review this MOU to assess its effectiveness and discuss updates and renewal. Staff from the BLM Oregon State Office and the DEQ headquarters, with input from the DEQ regional office and BLM district offices, will evaluate interagency collaboration and processes for water quality management and restoration, including TMDL implementation and watershed restoration activities. Coordination between the Parties and their staff will also be reviewed. The results of this discussion will be presented to the DEQ Water Quality Administrator and the BLM Deputy State Director for Resources, Lands, and Minerals. Based on the review outcomes, the MOU may be extended, adjusted, renewed, or terminated, and interactions among local staff and procedures may be modified.
2. The Five-Year Review will utilize information gathered by BLM and DEQ staff to recommend any changes to the future MOU. The information considered and discussed will include:
 - a. Summary of accomplishments by basin and projections for future actions.
 - b. Progress in IP development and implementation.
 - c. BMP implementation and effectiveness monitoring.
 - d. An evaluation of agency activities in meeting Federal and State Water Quality programs and standards.
 - e. Recommendations for MOU updates and process improvements for staff interactions and collaborations.

VIII. SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as of the last date written below:



Leah Feldon
Director, State of Oregon
Department of Environmental Quality

Date

Barry R. Bushue
State Director, Oregon/Washington
Bureau of Land Management

Date