CONFEDERATED TRIBES OF COOS,
LOWER UMPQUA & SIUSLAW INDIANS

Nonpoint Source Pollution Management Plan

1.0 NONPOINT SOURCE MANAGEMENT PLAN

1.1 INTRODUCTION

The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians seek to correct and prevent human caused or linked nonpoint source water pollution. To pursue this objective, Section 319 of the Federal Clean Water Act provides a method for the Confederated Tribes to follow as they work to improve water quality. Section 319 outlines the process by requiring two documents. The first is a Nonpoint Source Pollution Assessment of all reservation and tribal lands. The second document is a Nonpoint Source Pollution Management Plan that identifies how the Confederated Tribes intend to address the problems identified in the Assessment.

The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians have completed and forwarded to the EPA the Confederated Tribes' Nonpoint Source Pollution Assessment. This assessment, referencing data compiled by the Oregon Department of Environmental Quality, the US Forest Service, the South Coast Watershed Council, among others, identifies water quality impairments to beneficial uses of Tribal waters, including culturally significant salmonid production and shellfish gathering. This assessment synthesized information from Tribal evaluations and various watershed assessments and offered conclusions on the primary causes of the impairments. These conclusions direct the management of nonpoint sources of pollution of Tribal waters and the Tribal Ancestral Watersheds toward maintenance and improvements in the quality of the relatively healthy Tribal holding, and to continued collaboration with other stakeholders in the Ancestral Watersheds to address nonpoint sources beyond the slivers of Tribal lands.

The goal of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians' Nonpoint Source Pollution Management Program is to eliminate contributions from Tribal holdings to the impairment of water quality in the Confederated Tribes' Ancestral Watersheds. The further goal of the Confederated Tribes Nonpoint Source Pollution Management Plan is to reduce contributions originating beyond Tribal holdings but which pertain to Tribal waters. The objectives of the Plan include the implementation of BMPs for Tribal holdings and the continued collaboration with other stakeholders in the Ancestral Watersheds to cooperatively implement projects to reduce nonpoint source pollution inputs.

The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians Nonpoint Source Management Plan identifies the tribal programs to address the problems, as well as the source of authority for creating the mechanisms to act. In addition, this Nonpoint Management Plan identifies Best Management Practices (BMPs) under consideration and suggests new programs or activities needed to improve water quality on tribal lands. Among the suggestions are ways to improve coordination of the efforts of various governmental agencies, private landowners, and other stakeholders to control nonpoint pollution sources, along with support for restoration projects and broader adoption of BMPs throughout the Confederated Tribes' Ancestral Watersheds.

Section 319 of the Clean Water Act requires six principal categories of information to be included in the Tribes' Nonpoint Source Management Plan. Each of these categories is addressed in this document, and they consist of the following.[1]

1. Best Management Practices which will be used to reduce pollution from each category or subcategory of NPS pollution, taking into account the impact of the proposed practice on groundwater quality.

2. Nonpoint Source Programs including regulatory and nonregulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, demonstration projects, and monitoring/evaluation to assist in the implementation of BMPs. The lead and cooperating agencies for carrying out these programs and their specific responsibilities should be clearly identified.

3. A schedule containing annual milestones for the four-year plan which can be used to gauge the effectiveness of various programs. The schedule shall provide for utilization of BMPs at the earliest practicable date.

4. A certification of adequacy of Tribal Ordinances by the Tribal Attorney that existing laws and ordinances provide adequate authority to implement the proposed management program. If additional legal authority is needed, a schedule for seeking such authority shall be adequately expeditious to allow implementation within the four year Management Program.

5. Funding sources which are available to carry the Tribes program in each of the four fiscal years, in addition to assistance, provided under section 319.

6. Federal consistency - The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians Management Program should identify federal financial assistance programs and federal development projects which will be reviewed by the State for their consistency with the proposed NPS Management Plan.

2.0 319 MANAGEMENT PLAN

2.1 Introduction

The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians' 319 Management Plan focuses on mitigating and improving conditions that result in the migration of diffused pollutants into the waterways on or near its land. Because most nonpoint source pollutants enter the waterways via runoff, the management plan must address the affects of precipitation and runoff over the course of the year, rather than on a specific point either in space or time.

Unfortunately, nonpoint source pollutants are much more difficult to identify, and their affects are only felt over time, as there is almost never a single catastrophic event that triggers the problems.

[1] The following requirements are taken from Fort Peck Reservation Nonpoint Source Management Plan," available at the EPA website: http://www.epa.gov/owow/nps/fortpeck/fprnmp.html (.) The entire section is a direct quote from this source.

Even more confounding is the fact that nonpoint pollutants often interact with one another and more than one variable can contribute to the problem. Consequently, measures to correct problems may only be partially effective. Another difficulty is that the impacts from BMPs take time to evaluate, just as the impact from nonpoint source pollution is the result of long-lived and cumulative build-up over years or decades.

Given the difficulties of measuring nonpoint pollution and pinpointing causes, along with the slow build-up of the problem, it is not surprising that attempts to control and remediate nonpoint source pollution have been slow. Moreover, the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians' treaty was never ratified, The Tribes had no reservation from 1875 until 1984, the Tribes federal recognition was terminated in 1954, restoration in 1984 included no return of land to the Tribes and recognized the mere 7.4 acres of land held by the Tribes as the "reservation." Only recently have the Tribes had the resources to develop the Tribes' Environmental Program and to begin drafting BMPs.

The Tribes have approached the need to address nonpoint source pollution by identifying the primary categories of nonpoint pollution affecting Tribal waters. These categories are agriculture, forestry, and hydromodificaton. The small and dispersed nature of Tribal holdings result in the conditions of the Tribes' holdings contributing now or in the future little if any load to impaired waterbodies, and offering limited opportunity for watershed improvement projects. The interconnectedness of a watershed highlight another issue facing any entity wishing to mitigate nonpoint source pollution: in any given watershed, there are several other agencies, organizations, individual landowners, and groups that have control over managing and protecting environmental resources.

With the above challenges identified, the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians Nonpoint Pollution Management Plan stresses prevention, restoration, and a high level of coordination and cooperation with other land holders in the Confederated Tribes' Ancestral Watersheds. The development of BMPs discussed in the Assessment is also referenced in this Management Plan. Education and enforcement capacity will contribute to prevention of contribution of pollutants by Tribal land users and managers. In addition to BMPs, the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians will establish standards and regulate nonpoint source pollution through its codes and ordinances. Moreover, the Tribes anticipate developing educational programs to encourage voluntary compliance and participation from members and other land users.

2.2 General Management Program

The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians' Environmental Program, through the direction of the Tribal Council, is responsible for the administration of the Tribes' Environmental Ordinances. The ordinances (currently being developed) include a Drinking Water Ordinance based on the Safe Drinking Water Act, a Water Quality Ordinance which will adopt water quality standards based on federal core water quality standards, a Construction Storm Water Pollution Prevention Ordinance which will be based on NOAA Fisheries Biological Opinion Terms and Conditions, and various forestry ordinances based on US Forest Service, Bureau of Land Management, and Oregon Department of Forestry BMPs.

The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians' Nonpoint Source Management Plan is divided into two parts. The first part is the General Management Program, while the second is the Specific Management Program. As the titles suggest, the General

Management Program focuses on the overall strategy and philosophy for managing and eliminating nonpoint source pollution. The second part examines specific categories of nonpoint source pollution and addresses the programs designed to ameliorate the harmful affects of agriculture, hydromodification, forestry, etc. The Specific Management Program identifies BMPs, prioritizes impaired waterways and proposes solutions for the existing problems. In addition, the Specific Management Program section establishes milestones for the overall program and targets dates to help measure the Program's effectiveness. Separate from the Program, the Tribes have a Quality Assurance Project Plan that will guide its water quality monitoring activities. Given the current fiscal environment and availability of Tribal resources, implementation of the majority of 319 goals, milestones and targets will depend on the availability of funding.

2.2.1 *Administration* – Administration, including coordination of the General Management Program and the Specific Management Programs, will be carried out by the Environmental Program of the Tribal Administration. The Environmental Program Coordinator is supervised directly by the Tribal Administrator, who reports directly to and receives direction from the Tribal Council.

2.2.2 *Assessment* - Identifying the nonpoint source pollution problems on the holdings of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians demands a comprehensive knowledge of studies, reports, monitoring data, and professional judgment. To date, much of the information and data regarding nonpoint source pollution comes from non-tribal sources, including the Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, the US Forest Service, and Watershed Associations. The Confederated Tribes have received approval from EPA and will begin directly monitoring Tribal waters under Section 106 of the Clean Water Act in January 2004.

2.2.3 *Restoration* – Based on the Assessment of Tribal holdings and the Ancestral Watersheds, watersheds restoration projects will be implemented to address contributions of Tribal holdings to nonpoint source pollution. Projects will prioritize pollutions which impair water quality to the extent that the affected waterbody is on the Oregon Department of Environmental Quality (ODEQ) 303(d) list off water quality limited waterbodies. Projects will generally rely on time-tested methods of restorations, such as those described in the 1997 Oregon Watershed Enhancement Board Guide to Aquatic Habitats Restoration; projects may also employ innovative and promising new methods of watershed restoration.

2.2.4 *Monitoring* - As the Tribes implement the Section 106 Clean Water Act Tribal Water Quality Monitoring Program, more data will become available regarding Tribal waters. The Confederated Tribes have discussed combining monitoring of water quality at the Tribes' North Fork Siuslaw estuarine holding with monitoring of the fish community at that site with the Oregon Department of Fish and Wildlife. Determining BMP effectiveness may prove difficult due to the generally small size of Tribal holdings. Pending enactment of legislation which would restore 62,86 acres of forest land to the Confederated Tribes, the Tribes will implement the Tribal Water Quality Monitoring Plan, which integrates the concepts of monitoring for nonpoint sources or pollution such as elevated levels of temperature and turbidity, in the Tribal Forest. These efforts are intended to improve the accuracy of the Confederated Tribes' assessment, as well as to evaluate the effectiveness of the BMPs to the maximum extent possible.

2.2.5 *Education* - In the long run, no pollution reduction and prevention program can be successful without voluntary cooperation and compliance from Tribal Members, leaseholders, and other landowners in the watershed. Therefore, education to explain the benefits of compliance is

essential for success. Education efforts are accordingly designed to promote understanding of the problem and BMPs and to promote compliance with all Ordinances. The Environmental Program of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians will develop educational materials designed for members, leaseholders and stakeholders. Outreach activities will include presentations to stakeholder groups and other affected parties and tours of Tribal holdings to demonstrate BMPs and restoration projects. In addition to Tribal initiatives, the Confederated Tribes will work cooperatively with other Tribal, federal, state, and local governments, and other stakeholder groups, and the Tribes will continue to be actively involved in the watershed associations of the Ancestral Territory.

The General Management Program milestones for administration, assessment, restoration, monitoring, and education are summarized in Table 1.

Table 1. General Management Program Administrative Milestones.

ACTIVITY	OUTPUT	DATE
Complete Tribal review and adoption of Drinking Water Quality, Construction Stormwater Pollution Prevention, and Building Code Ordinances and BMPs	BMPs and Ordinances	12/31/03
Initiate and implement tribal water quality monitoring program as per EPA approved QAPP	Data on temperature, pH, conductivity, dissolved oxygen, turbidity, and salinity.	1/1/04; Ongoing
Request 319 Grant from EPA for implementation of Management Plan	Successful application leading to funding	1/21/04
Submit revised NPS Assessment and Management Plan to EPA as necessary	2 documents to the EPA	Ongoing as necessary
Publish articles in Tribal Newsletter on the Nonpoint Source Pollution Program	Newsletter Articles	8/04 temperature 1/05 turbidity 2/06 ordinances
Complete Tribal review and adoption of Surface Water Quality Standards and Ordinances, and Road and Developments Storm Water Pollution Control Ordinances and BMPs	BMPs and Ordinances	7/1/04
Implement improvements to the storm resistance of roads and other road-related turbidity and other nonpoint source control projects	Decreased road-related sediment and other nonpoint source pollution inputs	Summers 2004 - 2008
Implement riparian vegetation management projects	Diverse indigenous riparian vegetation with maximum erosion control and shade capability	Summers 2004 - 2008

Table 1. (Continued)		
ACTIVITY	**OUTPUT**	**DATE**
Implement riparian revegetation projects	Diverse indigenous riparian vegetation with maximum erosion control and shade capability	Winters 2004 - 2008
Implement instream structure restoration projects	Increase sorting and storage of bedload to predisturbance hydrologic functions	Summers 2004 - 2008
Conduct tours of nonpoint source pollution management projects	Tours to increase awareness and understanding	Annually
Complete Tribal review and adoption of Ground Water, and Agricultural Water Quality Ordinances and BMPs	BMPs and Ordinances	4/1/05
Complete Watershed Assessment	Analysis of watershed processes and conditions	7/1/05
Complete Integrated Management Plan incorporating nonpoint source pollution management	Integrated management and minimized nonpoint source inputs	10/1/05
Complete Tribal review and adoption of Forestry Water Quality Ordinances and BMPs, Light Development Riparian Buffer Ordinance, Human Health Ordinance	BMPs and Ordinances	12/31/05
Complete brochures on Tribal nonpoint source pollution ordinances and BMPs	Brochures	6/1/06
Submit annual report to EPA	Annual report	11/1/XX
Submit Quarterly Progress Reports	4/year	Quarterly
Incorporate priorities into workplan for Tribe's program and submit proposals to funding sources (Tribes, EPA, BIA, Oregon Watershed Enhancement Board, etc.)	Workplan proposals	Ongoing
Submit revised NPS Assessment and Management Plan to EPA as necessary	2 documents to the EPA	Ongoing as necessary

2.2.6 *Funding Needs*

The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians anticipated annual funding needs are presented below:

Administration/Education	
Staff @ 0.25 FTE $25.00/hr	$13,200
Benefits @ 35%	$ 4,620
Travel & Per Diem	$ 1,480
Training	$ 2,000
Supplies	$ 1,000
Pamphlets/ Brochures development	$ 2,500
Printing	$ 1,600
Workbooks and education supplies	$ 1,800
Demonstration supplies	$ 2,000
Sub-Total:	**$30,200**
Monitoring Program	
Staff @ 0.5 FTE $15.00/hr	$15,840
Benefits @ 35%	$ 5,545
Travel & Per Diem	$ 7,000
Training	$ 2,000
Supplies	$ 2,000
Laboratory materials and services	$ 5,000
Sub-Total:	**$37,385**
Restoration Program	
Staff @ 0.5 FTE $15.00/hr	$15,840
Benefits @ 35%	$ 5,545
Travel & Per Diem	$ 7,000
Training	$ 2,000
Supplies	$ 3,000
Equipment	$ 2,000
Materials	$ 3,000
Services	$10,000
Sub-Total:	**$48,385**
Indirect Costs (Federally negotiated 60% Rate)	**$72,480**
TOTAL	***$188,450***

2.3 Specific Management Programs for Nonpoint Pollution Categories

The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians are beginning the Tribal Water Quality Monitoring Program, have completed the Tribal Nonpoint Source Pollution Assessment, have identified a suite of BMP sources from which to select or tailor BMPs for Tribal holdings, and have secured funding and have approved workplans to adopt BMPs and Ordinances intended to prevent nonpoint source pollution from originating from Tribal holdings. The management decisions the Tribes have and will make are based on the best science available, professional judgment, and site-specific considerations, and cultural priorities. Among the considerations the Tribes take into account are the following variables.

1. Severity of pollution problem and extent to which tribal and other beneficial uses are impaired;[2]

2. Potential for the Tribes to effectively address the pollution problem, given technical, financial, and geographic/hydrologic constraints (i.e. optimizing economic benefits);

3. Potential for actions to be a component of a larger reach, watershed, Gene Conservation Group, or Evolutionarily Significant Unit scale effort.

4. Cultural considerations addressed by the action.

As the Confederated Tribes develop and implement projects, the Tribes continually review and evaluate the programs and activities. In addition, the Confederated Tribes may participate in projects when the Tribes are not the sole or primary sponsor: the Tribes have teamed with watershed associations, soil and water conservation districts, or other government agencies to work toward common goals. Regardless of the specific arrangement, the goals shall remain the systematic enforcement of Ordinances on Tribal holdings and application of BMPs to prevent nonpoint source pollution and to restore the processes which maintain water quality and functioning aquatic habitats. This Nonpoint Source Management Plan and the below tables of pertinent nonpoint source pollution category activities and outcomes will serve as the Tribes' Action Plan for achieving the goal of restoring water quality in the Ancestral Watersheds.

2.3.1 *Agricultural Milestones*

Agricultural practices are believed to be a significant if not the primary contributor to the impairment of Tribal holdings in the Coos Estuary. Fecal coliform bacteria, believed to mostly originate from cattle ranches and dairies, contribute to the impairment of the Coos Estuary and may contribute directly or indirectly to impairment of the Siuslaw Estuary. Elevated turbidity and temperature impairs the water quality of the North Fork Siuslaw River/Estuary and many other fish-bearing streams of the ancestral watersheds. Depressed dissolved oxygen concentration impairs the water quality of the Sixes River, located in a small coastal watershed with a large amount of nutrient input from livestock instream watering. The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians do not currently nor will in the foreseeable future hold land in agricultural use. The Confederated Tribes will none-the-less develop the regulatory capacity to prevent non-point source pollution from agricultural lands through the enactment of an Agricultural Ordinance which will include components to address nonpoint source pollution. Utilization of agricultural BMPs for nonpoint source pollution control on Confederated Tribes of

[2] Ibid.

Coos, Lower Umpqua and Siuslaw Indians land is voluntary, but compliance with Water Quality Standards is not. These BMPs and Ordinances will rely heavily on Natural Resource Conservation Service guidance, as well as local Agricultural Water Quality Management Plans. The Confederated Tribes will use the Tribes moral authority, political influence, and available financial resources to assist agricultural landowners in the Ancestral Watersheds to eliminate nonpoint sources of agricultural pollution. The Agricultural Management Program milestones are summarized in Table 2.

Table 2. Agricultural Management Program Milestones.

ACTIVITY	OUTPUT	DATE
Initiate and implement tribal water quality monitoring program as per EPA approved QAPP	Data on temperature, pH, conductivity, dissolved oxygen, turbidity, and salinity.	1/1/04; Ongoing
Publish articles in Tribal Newsletter on the Nonpoint Source Pollution Program	Newsletter Articles	8/04 temperature 1/05 turbidity 2/06 ordinances
Complete Tribal review and adoption of Surface Water Quality Standards and Ordinances	BMPs and Ordinances	7/1/04
Implement riparian vegetation management projects	Diverse indigenous riparian vegetation with maximum erosion control and shade capability	Summers 2004 - 2008
Implement riparian revegetation projects	Diverse indigenous riparian vegetation with maximum erosion control and shade capability	Winters 2004 - 2008
Implement instream structure restoration projects	Increase sorting and storage of bedload to predisturbance hydrologic functions	Summers 2004 - 2008
Complete Tribal review and adoption of Ground Water, and Agricultural Water Quality Ordinances and BMPs	BMPs and Ordinances	4/1/05
Complete Integrated Management Plan incorporating nonpoint source pollution management	Integrated management and minimized nonpoint source inputs	10/1/05
Complete brochures on Tribal nonpoint source pollution ordinances and BMPs	Brochures	6/1/06

2.3.2 *Forestry*

Forestry activities have a profound effect on the water quality of Tribal waters. While forestry is not the sole contributor to the impairments, elevated turbidity and temperature levels impair the water quality of the Tribal holding at the site of the Ancestral Siuslaw Village on the North Fork Siuslaw Estuary. Elevated temperature impairs the water quality of the Sixes River, and when A-grade data on turbidity is collected, evaluation indicates that the Sixes River will likely be listed for sediment as well. Much of the Tribal land holdings are forested, however, the Tribes do not actively manage forested Tribal holdings due to cultural, historical, environmental, or silvicultural

reasons, depending on the tract. As with agricultural practices, the forestry practices that do impact tribal water quality tend to be upstream (or tidally downstream) operations, largely on private lands.

While the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians currently do not engage in commercial forestry, legislation has been introduced in the United States Senate to restore 62,865 acres of the Siuslaw National Forest to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians. The opportunity and responsibility to manage the Tribal Forest will dominate the Confederated Tribes' Nonpoint Source Pollution Management Program. The Tribal Forest will be managed according to the provision of the National Indian Forest Resources Management Act, as well as the enabling legislation which currently and in all probability will continue to direct the management of the Tribal Forest to achieve the management and restoration goals for nearby and adjacent Federal land, currently managed under the Northwest Forest Plan. Under the legislation, the Bureau of Indian Affairs, with the Assistance of the US Forest Service, will develop a management plan for the Tribal Forest. Within this Tribal Forest Management Plan will be incorporated the goals and objectives of the Confederated Tribes Nonpoint Source Pollution Management Plan, including Tribal BMPs and Ordinances. While the language of the legislation will largely determine these Tribal BMPs and Ordinances, the Confederated Tribes will consider all sources of forestry BMPs which can contribute to the minimization of nonpoint source pollution related to forestry activities, including the Northwest Forest Plan Record of Decision, including the Aquatic Conservation Strategies, the (in progress) Management and Habitat Conservation Plans for the Northwest State Forests and the Elliott State Forest, the Oregon Department of Forestry 2002 Forest Roads Manual, and references available from the US EPA.

With or without the restoration of forest land to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, the Confederated Tribes will implement forest watershed restoration projects in Tribal holdings, and the Confederated Tribes will use the Tribes' moral authority, political influence, and available financial resources to assist forest landowners in the Ancestral Watersheds to eliminate nonpoint sources of silvicultural pollution. The Forest Management Program milestones are summarized in Table 3.

Table 3. Forest Management Program Milestones.

ACTIVITY	OUTPUT	DATE
Initiate and implement tribal water quality monitoring program as per EPA approved QAPP	Data on temperature, pH, conductivity, dissolved oxygen, turbidity, and salinity.	1/1/04; Ongoing
Publish articles in Tribal Newsletter on the Nonpoint Source Pollution Program	Newsletter Articles	8/04 temperature 1/05 turbidity 2/06 ordinances
Complete Tribal review and adoption of Surface Water Quality Standards and Ordinances	BMPs and Ordinances	7/1/04

Table 3. (Continued)		
Implement improvements to the storm resistance of roads and other road-related turbidity and other nonpoint source control projects	Decreased road-related sediment and other nonpoint source pollution inputs	Summers 2004 - 2008
Implement riparian vegetation management projects	Diverse indigenous riparian vegetation with maximum erosion control and shade capability	Summers 2004 - 2008
Implement riparian revegetation projects	Diverse indigenous riparian vegetation with maximum erosion control and shade capability	Winters 2004 - 2008
Conduct tours of nonpoint source pollution management projects	Tours to increase awareness and understanding	Annually
Implement instream structure restoration projects	Increase sorting and storage of bedload to predisturbance hydrologic functions	Summers 2004 - 2008
Anticipated enactment of Forest Land Restoration Proposal legislation	Restoration of 62,865 acres of the Siuslaw National Forest to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians	2004
Complete Integrated Management Plan incorporating nonpoint source pollution management	Integrated management and minimized nonpoint source inputs	10/1/05
Complete Tribal review and adoption of Forestry Water Quality Ordinances and BMPs	BMPs and Ordinances	12/31/05
Complete brochures on Tribal nonpoint source pollution ordinances and BMPs	Brochures	6/1/06
Completion, with the assistance of the US Forest Service, of the Tribal Forest Resource Management Plan	Resource Management Plan	2006
20 % of annual Tribal Forest revenue (est. $200k) dedicated to watershed restoration	Massive Improvements to the Storm Resistance of Road Systems (ISR); Riparian conifer re-establishment; Instream structure restoration and bedload recovery	2005 - 2020

2.3.3 *Hydromodification*

Hydromodification is a process that can relate to several other categories of nonpoint source pollution. For example, any activity which increases erosion can result in hydromodification. Consequently, the best management practices for hydrologic and habitat modification often relate directly to other categories of nonpoint source pollution. As discussed in the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians' Nonpoint Source Pollution Assessment, hydromodification in the combined form of large pulses of sediment, riparian vegetation removal, and instream structure removal, indirectly related to forestry and agricultural practices, has resulted in water quality (elevated temperature and sediment) impairments due to losses of streambank stability and shade, and due to shallower base flows, particularly in stream channels downcut to bedrock. While many activities that result in hydromodification are regulated and permitted under Section 404 of the Clean Water Act and other regulatory pathways, many other activities are not jurisdictional to this regulation, thus BMPs and voluntary cooperation in restoration projects are a main avenue in addressing water quality impairment resulting from hydromodification in the Confederated Tribes' Ancestral Watersheds. Where incidental hydromodifications are presumed

to potentially arise from nonpoint source activity categories, BMPs and ordinances for those activities are presumed to minimize or prevent adverse hydromodification. Where hydromodification is the intended outcome, the Terms and Conditions attached to Section 404 Clean Water Act permits are presumed to minimize, prevent, or mitigate adverse hydromodification. The Confederated Tribes will use the Tribes moral authority, political influence, and available financial resources to assist landowners in the Ancestral Watersheds to eliminate nonpoint sources pollution arising from hydromodifications. The Hydromodification Management Program milestones are summarized in Table 4.

Table 4. Hydromodification Management Program Milestones.

ACTIVITY	OUTPUT	DATE
Complete Tribal review and adoption of Construction Stormwater Pollution Prevention Ordinances and BMPs	BMPs and Ordinances	12/31/03
Initiate and implement tribal water quality monitoring program as per EPA approved QAPP	Data on temperature, pH, conductivity, dissolved oxygen, turbidity, and salinity.	1/1/04; Ongoing
Publish articles in Tribal Newsletter on the Nonpoint Source Pollution Program	Newsletter Articles	8/04 temperature 1/05 turbidity 2/06 ordinances
Complete Tribal review and adoption of Surface Water Quality Standards and Ordinances	BMPs and Ordinances	7/1/04
Implement improvements to the storm resistance of roads and other road-related turbidity and other nonpoint source control projects	Decreased road-related sediment and other nonpoint source pollution inputs	Summers 2004 - 2008
Implement riparian vegetation management projects	Diverse indigenous riparian vegetation with maximum erosion control and shade capability	Summers 2004 - 2008
Implement riparian revegetation projects	Diverse indigenous riparian vegetation with maximum erosion control and shade capability	Winters 2004 - 2008
Implement instream structure restoration projects	Increase sorting and storage of bedload to predisturbance hydrologic functions	Summers 2004 - 2008
Conduct tours of nonpoint source pollution management projects	Tours to increase awareness and understanding	Annually
Complete Tribal review and adoption of Ground Water, and Agricultural Water Quality Ordinances and BMPs	BMPs and Ordinances	4/1/05
Complete Watershed Assessment	Analysis of watershed processes and conditions	7/1/05
Complete Integrated Management Plan incorporating nonpoint source pollution management	Integrated management and minimized nonpoint source inputs	10/1/05

Table 4. (Continued)		
Complete Tribal review and adoption of Forestry Water Quality Ordinances and BMPs	BMPs and Ordinances	12/31/05
Complete brochures on Tribal nonpoint source pollution ordinances and BMPs	Brochures	6/1/06

2.3.4 *Marinas/Boating*

Neither marinas nor boating have been found to contribute to impairments of Tribal water quality. Marinas and boating can contribute to water quality impairments through release of petrochemicals, other fuel exhaust pollutants, and pathogens and nutrients from human waste or fish cleaning stations. The Confederated Tribes currently hold in fee status a large proportion of the shoreline of Munsel Lake. The Tribes will keep this holding in "pristine" condition and plan to develop a Cultural Camp at this site. Any boating facilities will be operated consistently with the guidance provided by the ODEQ manual on marinas. Due to the limited level of anticipated activity in this category, and due to the limited concern over the potential level of impacts of Tribal boating, the development of BMPs and ordinances will likely be a low priority until such time as significant activity is expected to occur.

2.3.5 *Roads, Highways, and Bridges*

Roads have a major effect on watershed hydrology through their location and tendency to modify drainage patterns. Roads associated with forest management are a significant contributor of fine sediment, have the potential to result in hydromodification through contributions large pulses of sediment (fill failures) or through construction in and consequent disconnection of floodplains. Impermeable road surfaces (including bridges) and associated drainage structures tend to collect leaking vehicle fluids and route these substances to waterbodies: while no Tribal waters are listed as impaired by any of these pollutants, they of course are a concern.

Nonpoint source pollution management of forest roads is addressed in the Forestry Activity section above. The Confederate Tribes currently hold no "roads" other than driveways and parking lots. Stormwater pollution control best. The Confederated Tribes will none-the-less develop the regulatory capacity to prevent non-point source pollution from roads through the enactment of BMPs and a Roads Nonpoint Source Pollution Control Ordinance. The BMPs and Ordinance will rely on guidance available from the US EPA, ODEQ, Oregon Department of Transportation 1999 Routine Road Maintenance Guide, and NOAA Fisheries Biological Opinions. The Roads Management Program milestones are summarized in Table 5.

Table 5. Roads Management Program Milestones.

ACTIVITY	OUTPUT	DATE
Initiate and implement tribal water quality monitoring program as per EPA approved QAPP	Data on temperature, pH, conductivity, dissolved oxygen, turbidity, and salinity.	1/1/04; Ongoing

Table 5. (Continued)		
Publish articles in Tribal Newsletter on the Nonpoint Source Pollution Program	Newsletter Articles	8/04 temperature 1/05 turbidity 2/06 ordinances
Complete Tribal review and adoption of Surface Water Quality Standards and Ordinances, and Road and Developments Storm Water Pollution Control Ordinances and BMPs	BMPs and Ordinances	7/1/04
Implement improvements to the storm resistance of roads and other road-related turbidity and other nonpoint source control projects	Decreased road-related sediment and other nonpoint source pollution inputs	Summers 2004 - 2008
Conduct tours of nonpoint source pollution management projects	Tours to increase awareness and understanding	Annually
Complete Integrated Management Plan incorporating nonpoint source pollution management	Integrated management and minimized nonpoint source inputs	10/1/05
Complete brochures on Tribal nonpoint source pollution ordinances and BMPs	Brochures	6/1/06

2.3.6 *Residential and Light Commercial Development*

Light development can affect hydrology and contribute nonpoint source pollution including elevated temperature, sediment, vehicle fluids, yard chemicals, refuse, pet waste, etc. While the Confederated Tribes own several residences and other small lots, with the possible exception of pet waste, nonpoint source light development pollution has not been found to impair Tribal waters, although it is of concern. An Ordinance is pending which will require all Tribal construction to conform to local building codes and is expected to be adopted by 31 December 2003. Driveway runoff will be included in the Ordinance and BMPs regarding Road Storm Water Pollution Prevention. Refuse and pet waste will be included in a Human Health Ordinance. Temperature and turbidity control will be addressed by a Light Development Riparian Buffer Ordinance, which will reflect Oregon Department of Land Conservation and Development (ODLCD) land use goal guidance. The Light Development Management Program milestones are summarized in Table 6.

Table 6. Light Development Management Program Milestones.

ACTIVITY	OUTPUT	DATE
Complete Tribal review and adoption of Drinking Water Quality, Construction Stormwater Pollution Prevention, and Building Code Ordinances and BMPs	BMPs and Ordinances	12/31/03

Table 6. (Continued)		
Initiate and implement tribal water quality monitoring program as per EPA approved QAPP	Data on temperature, pH, conductivity, dissolved oxygen, turbidity, and salinity.	1/1/04; Ongoing
Publish articles in Tribal Newsletter on the Nonpoint Source Pollution Program	Newsletter Articles	8/04 temperature 1/05 turbidity 2/06 ordinances
Complete Tribal review and adoption of Surface Water Quality Standards and Ordinances, and Road and Developments Storm Water Pollution Control Ordinances and BMPs	BMPs and Ordinances	7/1/04
Implement improvements to the storm resistance of roads and other road-related turbidity and other nonpoint source control projects	Decreased road-related sediment and other nonpoint source pollution inputs	Summers 2004 - 2008
Implement riparian vegetation management projects	Diverse indigenous riparian vegetation with maximum erosion control and shade capability	Summers 2004 - 2008
Implement riparian revegetation projects	Diverse indigenous riparian vegetation with maximum erosion control and shade capability	Winters 2004 - 2008
Conduct tours of nonpoint source pollution management projects	Tours to increase awareness and understanding	Annually
Complete Integrated Management Plan incorporating nonpoint source pollution management	Integrated management and minimized nonpoint source inputs	10/1/05
Complete Tribal review and adoption of Forestry Water Quality Ordinances and BMPs, Light Development Riparian Buffer Ordinance, Human Health Ordinance	BMPs and Ordinances	12/31/05
Complete brochures on Tribal nonpoint source pollution ordinances and BMPs	Brochures	6/1/06

3.0 EXISTING AUTHORITIESAND PROGRAMS ADDRESSING NONPOINT SOURCE POLLUTION

3.1 Federal Clean Water Act[3]

Growing public awareness and concern for controlling water pollution led to enactment of the Federal Water Pollution Control Act Amendments of 1972: this law became commonly known as the Clean Water Act (CWA). The Act established the basic structure for regulating discharges of pollutants into the waters of the United States. It gave EPA the authority to implement pollution control programs such as setting wastewater standards for industry. The Clean Water Act also contained requirements to set water quality standards for all contaminants in surface waters. The Act made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions. It also funded the construction of sewage treatment plants under the construction grants program and recognized the need for planning to address the critical problems posed by nonpoint source pollution.

The Clean Water Act has been amended several times. Those amendments include major revisions or changes in 1977, 1981, 1987, 1995, and 2002.

Subsequent enactments modified some of the earlier Clean Water Act provisions. Revisions in 1981 streamlined the municipal construction grants process, improving the capabilities of treatment plants built under the program."[4] "Amendments to the CWA added in 1981 provided for reservations to receive grants to carry out water quality management planning activities. This allowed the Tribes to receive federal funding to help carry out basic water quality management planning activities with 208 funds."[5] To date, the Confederated Tribes have not undertaken Section 208.

Section 303. Section 303 of the CWA requires that EPA review and approve water quality standards to assure those standards are consistent with the requirements of the CWA. Water quality standards are provisions of local, state, or federal law which consists of a designated use or uses for the waters of the United States, and water quality criteria to maintain and protect such uses. Water quality standards must protect public health or welfare, enhance the quality of water and serve the purposes of the CWA. Accordingly, water quality standards influence and affect all water pollution control programs.
EPA guidance indicates that the relationship between nonpoint source pollution control and water quality standards should be based upon three basic principles:

1. Best management practices must be designed to meet water quality standards. Best management practices are the primary mechanism to enable the achievement of water quality standards. The Tribes expect that the proper implementation BMPs will achieve water quality standards. For proposed nonpoint source activities, BMPs designed and implemented in

[3] Federal laws and guidelines are quoted from EPA websites, including the Fort Peck document provided as a template at: http://www.epa.gov/owow/nps/fortpeck/fprnmp.html (.) Other sections of federal law come from other EPA sites including: http://www.epa.gov/owow/nps/sec319cwa.html ; http://www.epa.gov/safewater/sdwa/sdwa.html & http://www.epa.gov/water/laws.html and the entire text of the Clean Water Act is available at: http://www.epa.gov/r5water/cwa.htm

[4] "Clean Water Act" available at: http://www.epa.gov/r5water/cwa.htm

[5] Fort Peck Management Plan at: http://www.epa.gov/owow/nps/fortpeck/fprnmp.html

accordance with a tribal approved process will normally constitute compliance with the CWA. Once the Tribes have approved BMPs, the BMPs become the primary mechanism for meeting water quality standards. Proper installation, operation, and maintenance of tribal approved BMPs are presumed to meet a landowner's or manager's obligation for compliance with applicable water quality standards.

2. The effectiveness of BMPs must be demonstrated. Once the BMPs have been installed/applied and sufficient time has elapsed to establish the controls and monitor their effectiveness, attainment or maintenance of water quality standards and other water quality goals should be verified. If subsequent evaluation indicates that approved and properly implemented BMPs are not achieving water quality standards, the Tribes should take steps to revise the BMPs, evaluate the water quality standards for appropriateness, or both. Through the interactive process of monitoring and adjustments of BMPs and/or water quality standards, it is anticipated and expected that BMPs will lead to achievement of water quality standards.

3. If BMPs cannot adequately protect and maintain water quality standards, the Tribes must either revise the BMPs to ensure protection and maintenance of water quality standards or revise the standards or reevaluate the activity. If water quality standards are not being met, then the Tribe may require that the NPS controls be modified or the practice causing the nonpoint source pollution cease.

It should also be noted that EPA's regulations to implement Section 303 (40 CFR Part 131) require that the Tribes adopt an antidegradation policy. Antidegradation policy requires that:

1. Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected;

2. Where the quality of the waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the Tribes find that after full satisfaction of the intergovernmental coordination, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the Tribes shall assure water quality adequate to protect existing uses fully. Further, the tribes shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost effective and reasonable BMPs for nonpoint source control;

3. Where high quality waters constitute an Outstanding National Resource, such as waters of National and State parks, and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

Nonpoint pollution activities are not exempt from the antidegradation policy. Tribes are required to assure that the highest statutory and regulatory requirements for all new and existing point sources and all cost effective and reasonable BMPs for nonpoint source control shall be achieved. If a particular activity will degrade water quality even after all these measures are applied, Tribes have to:

1. Identify proposed water quality degradation (where and to what degree water quality will be lowered);

2. Determine that the degradation is necessary to accommodate important social or economic development.

Section 314. Section 314 of the CWA requires the Tribes to submit a biennial report on water quality in lakes on the reservation. These reports are to identify: eutrophic condition of tribal lakes; processes to control sources of pollution in such lakes; procedures in conjunction with appropriate federal agencies, to restore the quality of such lakes; methods to mitigate effects of high acidity; a list of tribal owned lakes for which uses are impaired; and an assessment of the status and trends of water quality in lakes including the nature and extent of pollution loading from point and nonpoint sources.

Funding is authorized to make grants to Tribes that have submitted satisfactory lake water quality reports to control pollution and restore and protect lakes. It is not know at this time whether funding will appropriated to address nonpoint pollution problems affecting lakes on the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Reservation.

Section 319. The 1987 Water Quality Act passed by Congress on February 4, 1987 amended the CWA to add a new Section 319, entitled "Management of Nonpoint Sources of Pollution." Section 319 requires each Tribe to develop a comprehensive statewide nonpoint pollution assessment report, and to submit a management program for control of nonpoint source pollution on the reservation.

The assessment report should identify reservation waters, 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 or requirements of the CWA. The assessment report should also identify categories and subcategories of nonpoint sources, as well as particular nonpoint sources that contribute pollution to identified waters, and include descriptions of Tribal management processes and control programs.

The nonpoint management programs are to include: best management practices to reduce pollutant loadings from each category and subcategory of nonpoint source pollution identified in the Tribes' Assessment report; specific management programs to achieve implementation of best management practices; a schedule for program implementation; certification of necessary legal authorities; and sources of funding to support implementation. The assessment report and the management program must be submitted to EPA, which has 180 days to approve or disapprove the report and program.

Upon approval of the assessment report and management program, Tribes are eligible for Section 319 grants from EPA to assist in implementing the management program. The federal share of implementation grants shall not exceed 75%. Eligible implementation cost include costs of implementing regulatory or non-regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer and demonstration projects. Monitoring which is done to support design of watershed-level control programs or to evaluate a particular implementation project is eligible. General assessment and planning activities as well as administrative costs are not considered implementation. Grants may also be provided for protecting groundwater quality with the maximum federal share set at 75%.

EPA has been directed to give priority in making 319 implementation grants to nonpoint projects which will control particularly difficult nonpoint source problems, implement innovative control

methods or practices, control interstate nonpoint source pollution, or carry out groundwater quality protection activities.

Each tribe is required to submit an annual report to EPA and the Administrator of EPA is required to report annually to Congress on the program.

Section 401. Section 401 of the Federal CWA requires that any applicant apply for a federal license or permit for the conduct of any activity which results in a discharge into the navigable waters of the U.S. The 401 certification authority is administered on the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Reservation by EPA. Section 401 provides the EPA with authority to assure that federally permitted or licensed activities which can result in nonpoint source pollution, do not violate Tribal Water Quality Standards (State water quality standards specify uses for the waters of the reservation, and the water quality criteria necessary to protect those uses.

Section 401 provides the Tribe with a mechanism to modify potentially damaging federally permitted or licensed projects. This authority is frequently applied toward dredge and fill permits issued by the U.S. Army Cops of Engineers and licenses issued by the Federal Energy Regulatory Commission.

Section 404. Section 404 of the Federal CWA establishes a permit program for the discharge of dredged or fill material into the waters of the U.S. The U.S. Army Corps of Engineers (COE), Portland District, administers this program on the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Reservation. Discharges of dredged or fill material are frequently associated with nonpoint source pollution-causing activities occurring in or adjacent to streams and wetlands. The 404 permit program allows a mechanism to require implementation of appropriate BMPs for the control of nonpoint source pollution by stipulation of BMPs as a condition of the permit. The program also allows opportunity for consultation among the COE, EPA, USFWS, and Conservation Districts regarding appropriate BMPs.

Discharges of dredged or fill material into wetlands are regulated under the 404 program. This serves as a significant means for protecting of wetlands, thus preserving their important function in improving water quality through assimilation of nutrients and retention of sediments.

3.2 Tribal Ordinances

The EPA and Department of Housing and Urban Development Rural Housing and Economic Development Program have provided funds and approved workplans for the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians to develop a suite of Environmental Ordinances for the period of 2004 – 2005.

3.3 Financial Assistance

3.3.1 *Federal*

Natural Resources Conservation Service

The Natural Resources Conservation Service administers two major programs that provide financial assistance to projects, which may reduce pollution from nonpoint sources, which are of interest to the Tribes. These programs are Public Law 566 and the Resource Conservation and Development Program.

Conservation Reserve Program[6]

The Conservation Reserve Program was authorized by the Food Security Act of 1985 and reauthorized by the Food and Agricultural Trade Act of 1990. The Farm Service Agency administers the financial and compliance provisions of the Conservation Reserve Program (CRP) through the Commodity Credit Corporation. Under the CRP, producers enter a contract to place highly erodible cropland into a conservation reserve for a ten to fifteen year period. The producer seeds the land to permanent cover to control erosion. Producers agree not to harvest, graze or crop the land for ten years. A significant change in the CRP program as of February 1988 allows the inclusion of areas dedicated to a vegetative filter strip along streams and permanent waterways. This strip to be planted to grass, shrubs or trees will normally be between 66 and 99 feet in width and should substantially increase streambank stability while substantially reducing sediments and nutrients and other chemicals from reaching water courses. Areas under CRP contract as filter strips must have previously been cropland and do not have to meet erodibility criteria of other CRP lands.

Water & Environmental Program

The Water and Environmental Program (WEP) is operated by the USDA's Rural Utility Service. The WEP provides loans, grants and loan guarantees for drinking water, sanitary sewer, solid waste and storm drainage facilities in rural areas and cities and towns of 10,000 or less. Public bodies, nonprofit organizations and recognized Indian tribes may qualify for assistance. WEP also makes grants to nonprofit organizations to provide technical assistance and training to assist rural communities with their water, wastewater, and solid waste problems."[7]

Water Bank Program[8]

The Water Bank Program, authorized in 1970, provides that persons having eligible wetlands in important migratory waterfowl nesting, breeding, and feeding areas could enter into ten year agreements and receive annual payments for preventing the serious loss of wetlands and for preserving, restoring, and improving inland fresh water and designated adjacent areas.

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[6] "Fort Peck Nonpoint Source Management Plan," http://www.epa.gov/owow/nps/fortpeck/fprnmp.html (.) and USDA Conservation Reserve Program Website: http://www.fsa.usda.gov/dafp/cepd/crp.htm

[7] Rural Utility Service, USDA, "Water and Environmental Home Page: ZZZZNote on the web page, Home Page is two wordsZZZZZ http://www.usda.gov/rus/water/index.htm

[8] "Fort Peck Nonpoint Source Management Plan," http://www.epa.gov/owow/nps/fortpeck/fprnmp.html (.)

Resource Conservation and Development (RC&D)

According to the NRCS, "the purpose of the Resource Conservation and Development (RC&D) program is to accelerate the conservation, development and utilization of natural resources, improve the general level of economic activity, and to enhance the environment and standard of living in designated RC&D areas. It improves the capability of State, tribal and local units of government and local nonprofit organizations in rural areas to plan, develop and carry out programs for resource conservation and development. The program also establishes or improves coordination systems in rural areas. Current program objectives focus on improvement of quality of life achieved through natural resources conservation and community development which leads to sustainable communities, prudent use (development), and the management and conservation of natural resources. RC&D areas are locally sponsored areas designated by the Secretary of Agriculture for RC&D technical and financial assistance program funds."[9]

Soil and Water Conservation Assistance

"The Soil and Water Conservation Assistance (SWCA) provides cost share and incentive payments to farmers and ranchers to voluntarily address threats to soil, water, and related natural resources, including grazing land, wetlands, and wildlife habitat. SWCA will help landowners comply with Federal and state environmental laws and make beneficial, cost-effective changes to cropping systems, grazing management, nutrient management, and irrigation."[10]

USDA Rural Development

The former Farmers Home Administration (FmHA) is now part of the Rural Development within the USDA. Rural Development continues to make loans and grants in rural areas. Several of these below market rate loans benefit water quality concerns. .

Environmental Protection Agency

The Environmental Protection Agency provides financial assistance to Tribes for activities related to nonpoint source pollution control under several sections of the CWA. Under Section 319 of the CWA, financial assistance can be provided to Tribes for the implementation of Tribal Nonpoint Source Pollution Management Programs. Section 319 asks that Tribes prepare a comprehensive reservation wide nonpoint pollution assessment report and a management program.

Upon approval of the assessment report and management program, Tribes are eligible for Section 319 grants from EPA to assist in implementing the management program. The federal share of implementation grants shall not exceed 75 percent. Eligible implementation costs include costs of implementing regulatory or non-regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects. Monitoring which is done to support design of watershed level control programs or to evaluate a particular implementation project is eligible. General assessment and planning activities as well as administrative costs are not considered implementation. Grants may also be provided for protection ground water quality with the maximum federal share set at 75%.

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[9] Natural Resources Conservation Service, "Resource Conservation and Development Program," http://www.nrcs.usda.gov/programs/rcd/

[10] Natural Resources Conservation Service, "Soil and Water Conservation Assistance," http://www.nrcs.usda.gov/programs/swca/

EPA has been directed to give priority in making 319 implementation grants to nonpoint projects which will control particularly difficult nonpoint source problems, implement innovative control methods or practices, control interstate nonpoint source pollution, or carry out groundwater quality protection activities.

NOAA Fisheries

NOAA Fisheries provides funds for salmonid habitat restoration through its NOAA Restoration Center Community-Based Restoration Program

US Fish and Wildlife Service

The US Fish and Wildlife Service provides funds through the Partners for Wildlife program and through programs dedicated to Tribal projects.

3.3.2 *State*

Oregon Watershed Enhancement Board

The Oregon Watershed Enhancement Board (OWEB) provides funds for watershed restoration projects.

3.3.3 *Private*

National Fish and Wildlife Foundation

The National Fish and Wildlife Foundation provides support for fisheries and wildlife enhancement projects

3.4 Roles of Agencies/Technical Assistance

3.4.1 *State*

Oregon Departments of Fish and Wildlife, Environmental Quality, Forestry, Agriculture.. These state agencies provide information and technical assistance for their respective resources.

3.4.2 *Federal*

US Environmental Protection Agency; US Department of the Interior Bureau of Indian Affairs, US Fish and Wildlife Service, Bureau of Land Management, US Geological Survey; US Department of Agriculture Natural Resources Conservation Service, US Forest Service. These federal agencies provide information and technical assistance for their respective resources.

4.0 FORMULATION OF BEST MANAGEMENT PRACTICES

Categories, subcategories, and sources of nonpoint pollution have been discussed in the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians' Nonpoint Source Pollution Assessment and in this Nonpoint Source Pollution Management Plan. The example of a Tribal nonpoint source pollution management plan provided by the Fort Peck Assiniboine and Sioux Tribes 1993 Fort Peck Tribes Nonpoint Source Management Plan states that "Section 319 of the Federal Clean Water Act requires each tribe to describe its process for identifying the measures it will use to control these categories, subcategories, and sources." The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians will begin developing BMPs for activities relevant to Tribal trust land in 2004 and will complete these BMPs by the end of 2005 with the adoption of the appropriate Tribal Ordinances and BMPs. EPA General Assistance Program (GAP) funds have been secured to develop BMPs during this timeframe which will provide specific guidance to minimize adverse effects on water quality by activities including ground disturbing activities and stormwater runoff associated with site development; riparian vegetation buffers in forested, agricultural, residential, and commercial landscapes; and road construction and maintenance activities. Housing and Urban Development, Rural Housing and Economic Development funds have been secured to develop BMPs for silvicultural activities as part of the Confederated Tribes' Forest Lands Comprehensive Development and Administration Project. A Tribal Forest Management Plan will be completed pending the enactment of and as per the statutory provisions of Senate Bill 868, the Coos, Lower Umpqua, and Siuslaw Restoration Amendments Act of 2003, which proposes to restore 62,865 acres of federal forest land to the Confederated Tribes. The general process for the development of BMPs for Tribal holdings is fairly uniform, although the details of the process will vary with the particular holding.

In general, the Tribal Administration will draft BMPs based on research of pertinent existing local, county, state, federal, and other Tribal BMPs and statutes. Through the Tribal newspaper and through Tribal Council meetings, the Tribal Membership will be informed of the progress of BMP development and will be encouraged to provide input. After this scoping and public comment period is complete, the BMPs will be submitted in ordinance form to the Tribal Council. The Confederated Tribes requires that proposed ordinances have a first reading and be subject to comment for thirty days prior to a second reading and potential adoption at a Tribal Council meeting. Pending Tribal Council approval, the BMPs will be adopted as Tribal Ordinances.

Silvicultural BMPs associated with the proposed Tribal Forest will be required to be consistent with the enabling legislation which leads to the enactment of the Tribal Forest. Such BMPs will be developed in a process similar to Tribal Ordinances and will be included in a Tribal Forest Resource Management Plan developed under the provisions of the Coos, Lower Umpqua, and Siuslaw Restoration Amendments Act of 2003, the National Indian Forest Resources Management Act, and Bureau of Indian Affairs policies and procedures. This Plan will be developed with input in a manner similar to the process for input on Tribal Ordinances. This Plan will be drafted by Tribal and BIA staff with the assistance of USFS staff, and will be subject to the provisions of NEPA.

There is a wide selection of excellent sources for BMPs for the Confederated Tribes to consider as the Tribes' BMPs are developed for the various types of Tribal land uses. These sources, including referrals, include:

- US Environmental Protection Agency (EPA);
- Natural Resources Conservation Service (NRCS);

- US Fish and Wildlife Service (USFWS);
- NOAA Fisheries;
- US Army Corps of Engineers (USACOE);
- US Forest Service (USFS);
- Bureau of Land Management (BLM);
- Oregon Department of Environmental Quality (ODEQ);
- Oregon Department of Land Conservation and Development (OLCDC);
- Oregon Watershed Enhancement Board (OWEB);
- Oregon Department of Agriculture (ODA);
- Oregon Department of Forestry (ODF);
- The proposed Oregon Division of State Lands (ODSL) State Programmatic General Permit (SPGP).

Many of these agencies, directly or through local Watershed Associations, provide technical and financial assistance for a variety of programs including nonpoint source pollution control. Given the (currently) small and dispersed nature of Tribal holdings, the Confederated Tribes have identified cooperation and coordination with these entities, especially watershed associations, in addition to the development of our own Tribal Nonpoint Source Pollution Management Program, as the most promising path to reversing impairments of Tribal water quality.

Categories of nonpoint sources of pollution identified by the EPA include agriculture; forestry; hydromodification / habitat alteration; marinas / boating; roads, highways, and bridges; urban environments, including low-impact development; and wetland / riparian management. Of these categories, the following are the Tribal land uses which may contribute to water quality impairments:

- Forestry;
- Roads;
- Urban/low-impact development;
- Wetland/riparian management;
- Boating.

As discussed above, current Tribal land uses are considered to have little or no actual or potential adverse effect on water quality. And as discussed above, agriculture, forestry, hydromodification, roads, and low-impact development are considered to be the primary contributors throughout the watersheds to water quality impairment. The Tribal BMP development process will prioritize those current or likely Tribal land uses which have the potential to contribute to water quality impairments, such as site development and forestry. The Tribal BMP development process will then prioritize those categories which contribute to impairment of Tribal water quality but which are not currently found on Tribal lands but which may in the future as land is acquired, such as agriculture. Based on the EPA and HUD approved work plans, the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians will have a unified Environmental Protection Code by the end of 2006.

5.0 CONCLUSION

The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians have struggled at least as hard as any federally-recognized Tribe in Oregon to retain their identity, culture, and sovereignty. Since restoration of federal recognition in 1984, the Confederated Tribes have expended the Tribes' scarce resources to meet the barest needs of the Tribal Government and Membership. The Confederated Tribes have slowly, carefully, and steadily built their administrative capacity with the goal of achieving self-governance and economic self-sufficiency. To this end, in the late 1990's, the Confederated Tribes established the Tribes' Environmental Program. The focus of the program to date has been to establish the basic government-to-government relationship, to develop the basic internal framework for the program, and to develop a Tribal water quality monitoring program. The Confederated Tribes have received EPA approval of the Tribes' Water Quality Monitoring Quality Assurance Project Plan and plans to begin to implement Tribal water quality monitoring in January 2004.

The Tribal holdings consist of several small and widely dispersed tracts. Limited current and potential land use also limits the current or potential contribution to nonpoint sources of pollution. Within the watersheds in which the Tribal holdings are located, water quality is impaired by significant, widespread, and difficult to manage sources of nonpoint source pollution, *i.e.* elevated levels of temperature, sediment, and fecal coliform bacteria, and depressed dissolved oxygen concentrations. Forest and agricultural practices are considered to be the primary categories of land uses contributing to these impairments. Years of work by the Confederated Tribes is on the verge of bearing fruit, as the Tribes are on the verge of a significant restoration of forest land, and on the verge of significant economic development.

Funds have been secured and workplans have been adopted to develop BMPs addressing ground disturbing activities and stormwater runoff associated with site development; riparian vegetation buffers in forested, agricultural, residential, and commercial landscapes; road construction and maintenance activities; silvicultural activities, and other environmental considerations. Given the extremely limited current land base, and given the relative newness of the Environmental Program, the Confederated Tribes have had little need or opportunity until now to develop best management practices for the slivers of holdings. Rather, the Confederated Tribes have engaged with other stakeholders in the Ancestral Watersheds, primarily through Watershed Associations, to seek solutions to impairments of water quality arising from Tribal and non-Tribally held lands and the consequent degradation of other aquatic resources, particularly the culturally significant resources of salmon, lamprey, and shellfish.

This Nonpoint Source Pollution Management Plan will be used by the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians to build on the administrative capacity already established by the Confederated Tribes and the Tribes' Environmental Program, and to build on the collaborative relationships between the Tribes and other stakeholders in the Ancestral Watersheds, so as to establish a Tribal Nonpoint Source Pollution Management Program which will integrate Tribal technical, financial, and land resources with the technical expertise and stewardship commitment of our partners in these watersheds and their Watershed Associations. This direction provided by this report will guide and prioritize the implementation of BMPs for controlling Tribal nonpoint sources of pollution and to minimize and reverse impairments of water quality from conditions on Tribal holdings. This Nonpoint Source Pollution Management Plan will also be used as a tool in our collaboration with other stakeholders to address nonpoint sources of pollution in the Ancestral Watersheds.