

February 2, 2015

Mrs. Jane O’Keeffe, Chair
Oregon Environmental Quality Commission
Mr. Dick Pedersen, Director
Oregon Department of Environmental Quality
DEQ Headquarters Office
811 SW 6th Avenue
Portland, OR 97204-1390

Subject: Outstanding Resource Waters in Oregon – North Fork Smith River Basin

Dear Chair O’Keeffe and Director Pedersen:

The undersigned conservation and fishing organizations, representing many thousands of members, are requesting that the Oregon Department of Environmental Quality (Department) and the Environmental Quality Commission (Commission) designate the North Fork Smith River and all of its tributaries in Curry County as Outstanding Resource Waters under OAR 340-041-0004(8).

“Outstanding Resource Waters means those waters designated by the Commission where existing high quality waters constitute an outstanding state or national resource based on their extraordinary water quality or ecological values or where special water quality protection is needed to maintain critical habitat areas”, OAR 340-041-0002(45). The US Environmental Protection Agency defines Outstanding Resource Waters as “Tier 3” (40 CFR 131.12(a)(3)).

Rising in Curry County, Oregon and flowing into Del Norte County, California, the North Fork Smith River and all of its tributaries unequivocally qualify as Outstanding Resource Waters in Oregon. The North Fork Smith River and its tributaries are pristine and are in reference water quality condition because they remain undammed, undeveloped, and flow from and through the Kalmiopsis Wilderness and the South Kalmiopsis Roadless Area. Recognizing the stream’s outstandingly remarkable water quality and world-class fishery, Congress added the North Fork Smith River in Oregon to the National Wild and Scenic River system in 1988. By rule the North Fork Smith River has priority to be nominated as Outstanding Resource Waters because it flows through a Federal Wilderness Area and a National Wild and Scenic River corridor, OAR 340-041-0004(8)(a)(B, E).

However, this remarkable watershed is now threatened by a nickel strip mine planned by a foreign-owned company that currently has a mineral exploration proposal before the Rogue River-Siskiyou National Forest for analysis. We are concerned that any mining development in the North Fork Smith River watershed would significantly degrade this National Wild and Scenic River’s extraordinary water quality.

Water quality impacts from the development of a strip mine would, in fact, detrimentally impact the very values that designation under the National Wild and Scenic River System strives to protect including fish habitat, recreation, and domestic water supplies for downstream communities.

The National Wild and Scenic North Fork Smith River and its tributaries support several imperiled fish species including Southern Oregon and Northern California Coast coho salmon, which are listed under the Endangered Species Act as threatened. Other species that depend on this river system's clean cool water for survival include steelhead trout, Chinook salmon, and coastal cutthroat trout.

Kayakers and white water rafters from across the nation flock to the Smith River system, including the North Fork Smith River in Oregon, to paddle and float its clear waters. Camping, swimming, and hiking also draw thousands to this river's corridor. These recreational activities support the economies of local communities. Central to the river's recreational attraction is its crystal clear waters.

The North Fork Smith River watershed also provides clean drinking water to a number of downstream communities and individual diverters. The community of Gasquet holds a water right from the North Fork Smith River. Hiouchi, Jedediah Smith Redwoods State Park, Crescent City, and Pelican Bay State Prison hold water rights downstream on the mainstem Smith River.

Baldface Creek is a major tributary of the North Fork Smith River in Oregon. In 1994 the US Forest Service studied Baldface Creek and all of its perennial tributaries and found that they are eligible for designation as Wild under the National Wild and Scenic Rivers System due to outstandingly remarkable water quality and fishery values. In 2004 the US Secretary of Agriculture recommended adding the Baldface Creek watershed to the adjacent Kalmiopsis Wilderness.

Since the North Fork Smith River is a border-crossing stream, the Commission is required to cooperate with the agencies of adjacent states and the federal government to prevent water pollution, ORS 468B.015(5).

The purpose of the Clean Water Act's "Antidegradation Policy is to guide decisions that affect water quality such that unnecessary further degradation from new or increased point and nonpoint sources of pollution is prevented, and to protect, maintain, and enhance existing surface water quality to ensure the full protection of all existing beneficial uses", 340-041-0004(1).

OAR 340-041-004(8) states the "Outstanding Resource Waters Policy" as "Where existing high quality waters constitute an outstanding State or national resource such as those waters designated as extraordinary resource waters, or as critical habitat areas, the existing water quality and water quality values must be maintained and protected, and classified as Outstanding Resource Waters of Oregon."

“The Commission may specially designate high quality water bodies to be classified as Outstanding Resource Waters in order to protect the water quality parameters that affect ecological integrity of critical habitat or special water quality values that are vital to the unique character of those water bodies. The Department will develop a screening process and establish a list of nominated water bodies for Outstanding Resource Waters designation in the Biennial Water Quality Status Assessment 305(b) Report”, OAR 340-041-0004(8)(a). “The Department will bring to the Commission a list of water bodies that are proposed for designation as Outstanding Resource Waters at the time of each triennial Water Quality Standards Review”, OAR 340-041-0004(8)(b). “When designating Outstanding Resource Waters, the Commission may establish the water quality values to be protected and provide a process for determining what activities are allowed that would not affect the outstanding resource values. After the designation, the Commission may not allow activities that may lower water quality below the level established except on a short term basis to respond to public health and welfare emergencies, or to obtain long-term water quality improvements”, OAR 340-041-0004(8)(c).

We understand that, to date, the Commission has not designated any Outstanding Resource Waters in Oregon. The North Fork Smith River basin is an ideal candidate for granting the first designation of Outstanding Resource Waters in Oregon and to proactively set a positive statewide example. A companion request is now before the California North Coast Regional Water Quality Control Board (NCRWQCB) for its triennial review (see the attached letters).

The Commission has a public trust responsibility and duty to prevent the degradation of the North Fork Smith River system and to protect the public interest. Therefore, we ask that the nomination of the North Fork Smith River system as Outstanding Resource Waters be immediately reviewed by the Department and added to the Commission’s agenda for its next public meeting. Please let each of us know in writing what your decision is. Thank you for considering this request.

Sincerely,

<p>Susan Jane M. Brown, Staff Attorney Western Environmental Law Center 1216 Lincoln Street Eugene, OR 97401</p>	<p>Kimberley Priestley, Senior Policy Analyst WaterWatch of Oregon 213 SW Ash St., Suite 208 Portland, OR 97204</p>
<p>Gordon R. Lyford, Agricultural Engineer Wild Rivers Water Rights P.O. Box 118 O’Brien, OR 97534</p>	<p>Ann Vileisis, President Kalmiopsis Audubon Society P.O. Box 1265 Port Orford, OR 97465</p>
<p>Cameron La Follette, Executive Director Oregon Coast Alliance P.O. Box 857 Astoria, OR 97103</p>	<p>Eileen Cooper, Vice President Friends of Del Norte P.O. Box 229 Gasquet, CA 95543</p>

Dave Willis, Chair Soda Mountain Wilderness Council P.O. Box 512 Ashland, OR 97520	Joseph Vaile, Director Klamath-Siskiyou Wildlands Center P.O. Box 102 Ashland, OR 97520
Alyssa Babin, Founder and President Wild and Scenic Rivers P.O. Box 1600 Brookings, OR 97415	Megan Hooker, Associate Stewardship Director American Whitewater megan@americanwhitewater.org Bend, OR 97701
Barbara Ullian, Coordinator Friends of the Kalmiopsis P.O. Box 1265 Port Orford, OR 97465	Dave Steindorf, California Stewardship Director American Whitewater 4 Baroni Drive Chico, CA 95928
Glen H. Spain, NW Regional Director Pacific Coast Federation of Fishermen's Associations (PCFFA) and the Institute for Fisheries Resources (IFR) P.O. Box 11170 Eugene, OR 97440-3370	Curtis Knight, Executive Director California Trout 360 Pine St., 4th Floor San Francisco, CA 94104
Guido Rahr, Executive Director Wild Salmon Center 721 NW 9th Ave, Suite 300 Portland, OR 87209	Grant Werschull, Executive Director Smith River Alliance P.O. Box 2129 Crescent City, CA 95531

Attachment: Friends of Del Norte January 9, 2015 Letter to the California NCRWQCB.
Smith River Rancheria January 20, 2015 Letter to the California NCRWQCB.

Cc: Governor Kitzhaber
Richard Whitman, Natural Resources Policy Director
Alydda Mangelsdorf, California NCRWQCB



Friends of Del Norte

Committed to our environment since 1973

*A nonprofit, membership based conservation group
advocating sound environmental policies for our region.*

PO Box 229, Gasquet, CA 95543

Jan. 9, 2015

Water Quality Control Board

Alydda Mangelsdorf
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Santa Rosa, California 95403
(707) 576-6735 (ph) (707) 523-0135 (fax) Email: Alydda.Mangelsdorf@waterboards.ca.gov
Matt St. John
Executive Officer

Regarding Triennial Review of CA North Coast Regional Basin Plan- Comments due Jan. 9, 2015

Task 11 *Designate Wild and Outstanding National Resource Water (ONRW) for the Smith River, focusing on the three forks (including tributaries) of the Smith River, as a high priority.*

The Smith River has been recommended by numerous environmental organizations, and your staff, as deserving of the highest water quality designation as an ONRW. However, this recommendation has not been taken up as a high priority. It is now urgent to obtain this protective status, because the Smith River is under immediate threat of proposed strip mining for nickel and strategic metals. Your own staff has recently responded (attachments) to a current proposal for water extraction to enable strip mining adjacent to the North Fork, stating that the Smith River is the crown jewel of California, and that strip mining along the North Fork in Oregon would not be in the public's best interest. Currently the Oregon Dept. of Water Resources has rejected the proposal for water extraction.

We ask that the California Water Quality Board and the Oregon Department of Environmental Quality Commission work in concert, to fully protect the three forks of the Smith River, the North, Middle and South, which wholly traverse Federal Lands, and terminate at the Main Stem within Jedediah Redwood State Park, a world heritage site.

Designation as ONRW would better safeguard outstanding national values that include protection of critical habitat for California's last Endangered Coho Salmon, enjoyment of a recreational treasure, the longest stretch of National and State Wild and Scenic River (over 300 miles), and an aesthetic focal point for both Redwood National and State Park (a UNESCO world heritage site), as well as Smith River National Recreation Area. Also included in a long list of beneficial use is supplying most of Del Norte County with the highest quality drinking water, and an important cultural heritage resource of the Tolowa Native American Tribes.

We now ask you to take urgently needed action to protect these values, because the Smith River is under immediate threat from nickel/rare mineral strip mining proposals. The Smith River is currently recognized as one of the most threatened rivers by American Rivers because of current strip mining proposals.

Designation as ONRW will protect the Smith River from antidegradation policy loop holes, that could allow pollution from industrial development of strategic metals of national importance to trump the important values that we currently enjoy. Unfortunately, the Siskiyou-Rogue River National Forest Service is dictated by the antiquated 1872 Mining Act, which places mining as a best use of their landscape. The mining company, Redflat Nickel has not been deterred in their quest, and is appealing the Oregon Water Resources decision. If Redflat Nickel finds an alternate water source for their exploration, the Forest Service can be forced to acquiesce. ONRW designation by both Oregon and California will close the antidegradation loop hole, and give the forks of the Smith River the added protection that is needed.

Please elevate to a high priority ONRW designation of the three forks of the Smith River. Attached are some of the responses of the entire community of Del Norte, California, and Southern Oregon, to the proposed mining on a tributary of the North Fork Smith River in Oregon. These include Crescent City Council, Del Norte County Board of Supervisors, California Dept of Fish and Wildlife, California Dept of Water Resources, several environmental organizations. An outpouring of thousands of citizen responses also opposed the strip mining threat, as well as the two Native American Rancherias within Del Norte County, representing the Tolowa Tribe with concern for their ancestral lands within both California and Oregon.

Thank you,

Eileen Cooper

Eileen Cooper, vice president, FODN- on behalf of the Board

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Smith River Rancheria

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Kara Brundin Miller
Chairperson

January 20, 2015

Denise Padgette
Vice Chairperson

North Coast Regional Water Quality Control Board
John W. Corbett, Chairman
550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Loren Bommelyn
Council Secretary

The Smith River Rancheria ("Tribe") is a federally recognized Tribe of Tolowa Dee-ni' (people) with ancestral lands in southern Oregon and northern California. The Tribe has a significant interest and an inherent obligation to care for, and protect the web of life of the important natural resources located within our ancestral lands.

Joel Bravo
Treasurer

The Smith River is under immediate threat from nickel/rare mineral strip-mining proposals. American Rivers currently recognize the Smith River as one of the most threatened rivers because of current strip mining proposals.

Marian Lopez
Council Member

Dr. Joseph
Giovannetti
Council Member

Designation as ONRW would better safeguard outstanding national values that include protection of critical habitat for California's last Endangered Coho Salmon, enjoyment of a recreational treasure, the longest stretch of National and State Wild and Scenic River (over 300 miles), and an aesthetic focal point for both Redwood National and State Park (a UNESCO World Heritage Site), as well as Smith River National Recreation Area. Also included in this long list of beneficial use is supplying most of Del Norte County with the highest quality drinking water, and an important cultural heritage resource of the Tolowa Dee-ni'. All of these features place the Smith River as a top quality ONRW.

Marvin Richards, Jr.
Council Member

Russ Crabtree
Tribal
Administrator

The Tribe recommends that the North Coast Regional Water Quality Board elevate to a high priority, the Outstanding National Resource Water (ONRW) designation of the North, Middle and South forks of the Smith River, including its tributaries.

Respectfully,

Kara Brundin-Miller
Tribal Chairperson
On behalf of the Smith River Rancheria Tribal Council

Cc: Matt St. John, Executive Officer NCRWQCB
Alydda Mangelsdorf, Supervisor, Planning Unit NCRWQCB

*Waa-saa-ghithl-'a~ Wee-ni Naa-ch'aa-ghithl-ni
Our Heritage Is Why We Are Strong*