**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
**REGION IX**
**75 Hawthorne Street**
**San Francisco, CA 94105-3901**

October 20, 2008

Mr. Robert Haggard
Noxious Weed Treatment Project
Modoc National Forest
800 West 12th Street
Alturas, CA 96101

Subject: Final Environmental Impact Statement, Noxious Weed Treatment Project, Modoc National Forest, California (CEQ # 20080363)

Dear Mr. Haggard:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced Final Environmental Impact Statement (FEIS) pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA reviewed the Draft Environmental Impact Statement (DEIS) and provided comments to the Forest Service on February 8, 2005. We rated the DEIS as Environmental Concerns - Insufficient Information (EC-2) because of concerns regarding the integration of weed treatments within alternatives and with other Forest activities, impacts to water quality, toxicity of herbicides to wildlife, and impacts to tribes from herbicide use.

The FEIS includes two additional alternatives 5 and 6, and the Forest Service has selected alternative 6 in its Record of Decision (ROD). Alternative 6 uses less herbicides than the previously preferred alternative 4, would not treat large-acreage sites with herbicides, and contains more treatment methods (physical, cultural, and herbicide) than the other alternatives. Alternative 6 also adds the use of grazing animals (goats) for treatment of certain weeds, per EPA's suggestion, and avoids use of herbicides in the subwatershed associated with the Fort Bidwell Tribal Reservation. We commend the Forest Service for your extensive public outreach for this project, your responsiveness to comments, and your commitment to sound science and environmental protection goals.

Notwithstanding the project improvements mentioned above, EPA remains concerned regarding the potential transport of herbicides with high leaching potential into groundwater. In our DEIS comment letter, EPA recommended that areas with shallow groundwater conditions be identified, and that the potential for water-soluble herbicides, especially Clopyralid, to enter groundwater, be assessed. We recommended that soil depth criteria to prevent herbicide transport into groundwater be developed and incorporated as mitigation measures in the Final EIS.

The FEIS seems to address this issue through its design standard DS-22, which states that the Forest Hydrologist, Watershed Specialist or Soil Scientist would annually determine the location of the noxious weed occurrences to be treated to determine if the treatment site is located on sensitive or shallow soils. If it is determined that the site to be treated contains sensitive or shallow soils, then for Alternative 6 (DS-24), the treatment of noxious weeds on these soils utilizing herbicides other than Glyphosate will not exceed 1 acre per 6th field sub-watershed on an annual basis, or will be limited to annual herbicide treatments in 6$^{th}$ field watersheds of no more than 10% of the watershed acreage (p. 42).

This approach does not appear to fully address the potential for groundwater contamination from herbicides with high leaching potential. The FEIS acknowledges that use of Dicamba on sensitive or shallow soils was identified as a potential risk to groundwater contamination, due to the high leaching potential and mobility of the chemical (p. 75 response to comments). It also acknowledges that avoiding the use of the more mobile herbicides on shallow or sensitive soils would protect groundwater, particularly in areas of the Forest where shallow soils cover fractured bedrock (p. 145). The design standard proposed for Alternatives 2 and 4 directs that on noxious weed sites identified as having sensitive and/or shallow soils, no herbicides with high leaching potential are to be used to treat noxious weeds (DS-23, p. 42). This design standard is more protective of groundwater resources and we recommend Alternative 6 be modified to include this design standard.

We note that geologic units capable of yielding useable quantities of water with salinity below 10,000 parts per million (ppm) are considered "underground sources of drinking water" (USDW) and are protected under the Safe Drinking Water Act (SDWA). Section 1421 of the SDWA tasks EPA with protecting USDWs for all current and future drinking water supplies. USDWs are protected whether used as a current source of drinking water or not.

We appreciate the opportunity to review this FEIS and ROD. If you have any questions, please contact me at (415) 972-3521 or Karen Vitulano, the lead reviewer for this project, at (415) 947-4178 or vitulano.karen@epa.gov.

Sincerely,

Carolyn Mulishill for

Kathleen M. Goforth, Manager
Environmental Review Office (CED-2)