

# APPENDIX I - RESPONSE TO PUBLIC COMMENTS – 2017 MONTANA NONPOINT SOURCE MANAGEMENT PLAN

## INTRODUCTION

This document contains comments extracted, summarized, paraphrased, and organized from the body of comments received during the public comment period for the 2017 Draft Montana Nonpoint Source Management Plan. Similar comments from multiple people have been combined to avoid duplication. Comments were received from the following individuals and organizations:

- Fisheries Division, Montana Department of Fish, Wildlife and Parks
- Amy Jensen, U.S. Forest Service
- Alden Shallcross, Bureau of Land Management
- Adam Sigler, Montana State University Extension, Water Quality
- Brian D. Sugden, Weyerhaeuser Company
- Roger Ziesak, Montana Department of Natural Resources and Conservation
- Informal oral comments were received from agricultural representatives

## GENERAL COMMENT

**Comment:** *Page v (Nonpoint Source Management Authority). Reading this section, one is left with the impression that there were no non-point source components to the original 1972 federal Clean Water Act, and it was not until the 1987 amendments that these impacts were addressed through Section 319. I don't think this is the case. Section 208 of the original CWA did require NPS assessments, and these were conducted by many state Conservation Districts. It is my understanding that it is some of these assessments - mostly conducted in the early 1980s that were the original genesis of Montana's 305(b) reporting, and were ultimately incorporated in the mid-1990s 303(d) list of impaired waterbodies. I don't think you need to provide an exhaustive historical review here, but just wanted to let you know my impressions here.*

**DEQ Response:** **DEQ agrees** that the 1972 CWA Section 208 required processes to identify nonpoint pollution sources, and procedures and methods to control them. With respect to Montana's 208 assessments, conservation districts were involved in working with Montana's Department of Health and Environmental Service's Water Quality Bureau and provided anecdotal information and data in developing the State's 303(d) list (personal communication with Laurie Zeller, CARDD, DNRC, 2017). Language in the introduction has been added to clarify that Section 208 of the 1972 CWA provided for nonpoint source pollution planning.

## COMMENTS BY DOCUMENT SECTION

## SECTION 1.0 MONTANA’S NPS POLLUTION MANAGEMENT PROGRAM FRAMEWORK

**Comment:** Section 1.3. *“Streams not meeting standards are placed on a list of impaired waters.” Does DEQ consider the current list to be complete?*

**DEQ Response:** Montana’s list of impaired waters is a reasonably accurate representation of water quality problems throughout the state. This list was initiated more than 30 years ago and has been routinely updated to represent new information and evolving assessment methods. Updating our knowledge of impairment conditions in any watershed is part of the adaptive management approach discussed within Section 1.6. We acknowledge that it has been several years since last updating impairment conditions in several areas of the state, particularly many of the prairie watersheds of eastern Montana. Updated assessments would likely result in a mix of confirming existing impairment causes, identification of new impairment causes, and removal (delisting) of some existing impairment causes.

**Comment:** Section 1.5. *“DEQ encourages and supports local watershed groups and CD’s to develop watershed restoration plans.” FWP has found local watershed groups to be very effective in some watersheds, but not all watersheds have effective local groups to lead a public process. Is this process adequately supported, and are there alternative ways to ensure a local, public process contributes to watershed priorities? In addition, the WRP development process can be daunting for some groups. In addition to DEQ assistance with WRP development, are there ways to streamline this process of WRP development?*

**DEQ Response:** DEQ agrees that some local groups are very effective, while others are not as effective in developing and implementing watershed restoration plans. DEQ along with other Montana partners (specifically the MWCC, the SWCDM and the DNRC) have developed resources to partially support these efforts. It is likely that there are alternative ways to develop public, locally supported processes to determine watershed priorities and begin addressing water quality problems without 319 funding. However, because of EPA 319 program guidance it is not clear if there are ways to streamline the development of WRPs, unless the water quality improvement priorities are clear, limited, and can be easily addressed with available resources.

## SECTION 3.0 MONTANA’S NPS POLLUTION CONTROL STRATEGY

**Comment:** Page 3-8. *“Where legal and appropriate, Montana will support efforts to restore natural hydrologic conditions and reduce current over-allocation of water resources.” FWP’s chronically dewatered stream list is one tool to prioritize this effort, and local fisheries management biologists can be consulted for additional prioritization to develop funding partnerships.*

**DEQ Response:** There are multiple approaches that can be used and DEQ appreciates FW&P identifying the dewatered stream list and local fisheries expertise as a tool that can be used in the priority setting process.

**Comment:** *Page 3-5, Paragraph starting with “Pollution from...” In the last sentence of this paragraph, it states that “Montana has 157 waterbodies identified as impaired from forestry-related activities” I think that it might be worth noting that forestry is not the sole source of impairment for these 157 waterbodies, and there are other contributing sources that may include agriculture, highways, etc. If this is the case, one correction could be to revise by stating “Montana has 157 waterbodies identified as impaired (at least in part) by forestry-related activities”. Perhaps there is another way to address this comment as well.*

**DEQ Response:** The language on page 3-5 was modified to incorporate this suggestion.

**Comment:** *With respect to forestry, I was lead author on a 2012 paper in the Journal of Forestry that described Montana’s 20 year success story in implementing its forestry BMP program. I have attached that paper to these comments, as it might help further support the state NPS plan.*

**DEQ Response:** The language on page 3-5 was modified to incorporate this suggestion. A citation to this publication was added into “Strategy 1” in Section 3.1.2.

**Informal Comment: Section 3.1.3. Hydrologic Modification.** *Concerned about how dewatering is addressed and the implications associated with some of the recommended practices linked to irrigation use. Need to acknowledge water rights and take into consideration naturally dry conditions of many watersheds and resulting loss of flow from natural conditions. Also need to recognize that water is removed from streams for other used than agriculture, such as municipal uses.*

**DEQ Response:** The text in Section 3.1.3 was modified to address the stated concerns.

**Comment: Page 3-14: Strategy 3: Support Off-highway travel planning and promote responsible OHV use.** *The document states, “In general, this can be done through the U.S. Forest Service’s Travel Management Plans.” This omits BLM travel plans. While several field offices have completed their plans (Billings, Upper Missouri River Breaks National Monument, Dillon, Butte) others are currently developing theirs (Lewistown, Miles City, Missoula, Glasgow, Malta, Havre). These plans do/will include BMPs that reduce NPS.*

**DEQ Response:** The text in Section 3.1.5, Strategy 3 was modified to address the stated concerns.

**Informal Comment: Section 3.2.2. Atmospheric Deposition.** *The potentially significant contribution of natural events such as forest fires to atmospheric deposition should be noted.*

**DEQ Response:** We agree that forest fire smoke can potentially be a significant source of atmospheric deposition to waterbodies and added language identifying large forest fires as a contributor to atmospheric deposition of pollutants.

**Comment: Page 3-20: Climate Change:** *Consider referencing the Montana Climate Office’s “Montana Climate Assessment.” It likely contains pertinent and updated information for this section.*

**DEQ Response:** We agree that the recently published “Montana Climate Assessment” provides pertinent information and have cited the major findings from the publication in Section 3.2.3

## SECTION 5.0 WORKING PARTNERSHIPS

**Comment:** Section 5-3. *“Local watershed groups and other non-profit groups are critical partners in Montana’s NPS management program.” FWP agrees that MWCC is an important player in the process providing that any “lead partner” is accepted by local stakeholders. A review of existing watershed group dynamics may help understand how effective, long-term groups operate. The presence of committed local leaders appears to be one of the most important components of effective groups, and areas with water quality problems and a void of local leadership presents challenges to the nonpoint source plan.*

**DEQ Response:** We agree that committed, effective local leadership is critical to addressing water quality (and quantity) problems. We also believe that providing relevant inspiring examples, as well as training, group capacity building resources and on-line tools, and success stories that we can continue to build interest at the local level to address water quality problems.

**Comment:** Page 5-3, last sentence. *The document states, “...DEQ must prioritize many of the actions and activities of the NPS Management Program to maximize available resources to accomplish the goal of protecting and improving Montana’s water quality.” It may be helpful to cite the appendix/location of the prioritization criteria in this sentence.*

**DEQ Response:** We discuss program priorities in Sections 8.1 and 8.2 and have now cited these sections in the text on page 5-3.

## SECTION 7.0 EVALUATING SUCCESS

**Comment:** Page 7-1: Evaluating Success; Interim Outcomes. *This section discusses the need for implementation and effectiveness monitoring and lists “Progress on implementation is tracked and reported” as an interim outcome. We agree that implementation monitoring/project tracking is hugely important, especially for the “Restore” component of the NPS strategy. In order to know what has been effective, we first need to know what mitigation was done & where. Unfortunately, we are unaware of a standardized database to report and track these projects across the state. Consequently, information is often collected, but never aggregated (even within the same watershed) and is often lost/buried when project leads turnover. Therefore, one interim step towards this milestone could be the creation of a project entry module that populates a statewide geodatabase of restoration projects that mitigate NPS. This would include coded domains and enable everyone to relate mitigation projects to the water quality improvement plans, identify other groups that may be working on similar projects who would want to collaborate at the watershed scale (i.e. across jurisdictional/ownership boundaries), and likely improve coordination between land managers and the DEQ. It would also be an important first step towards the development of a strategic project effectiveness monitoring plan. Our watersheds often contain multiple land owners. If each group is working in isolation and nobody knows the cumulative status of mitigation in a watershed, it will be very difficult to measure the cumulative impacts of those projects or even correlate the water quality changes to specific actions.*

**DEQ Response:** DEQ agrees that it is important to know what mitigation has been done and where. DEQ tracks 319 projects in a Geographical Information System (GIS) database and will be

making this available to the public with a link from our website. We also rely, in part, on other entities tracking of nonpoint source pollution progress in GIS compatible formats. The Forest Service typically tracks most of their projects and shares this information with DEQ. The TMDL Implementation Evaluations offer an opportunity to identify multiple agencies and entities NPS efforts, but to pursue storing this information in a database format is a very large task requiring constant updates and significant outreach and compilation efforts. DEQ is looking at simple approaches to track progress, but more from the aspect of tracking water quality improvement rather than project implementation.

**Comment:** Section 7-2 “Evaluate Education and Outreach efforts.” Since the success on nonpoint programs is strongly based on voluntary actions, the E&O efforts are critical. Additional and more specific strategies for effectively conducting E&O efforts are needed.

*This section discusses tools for evaluating Education & Outreach (E&O) efforts, but is light on what the process for E&O is. Since the success of the Non-point program is based on voluntary actions, what exactly is the process for outreach efforts within DEQ? Perhaps this is where funding and support for local Watershed Groups comes in, and that makes sense, but does DEQ provide a framework for conducting E&O efforts? I’d be interested in more what that looks like. The document as a whole seems heavy on monitoring and assessment, but light on strategies for successful voluntary compliance. For example, is this achieved by simply educating landowners on BMPs, or is there a process of then following up with cost-sharing, grant applications, and/or partnership programs? Again, this is likely where Watershed Groups would jump in, and there are sections that talk about the grants etc., but I’m unclear on how this gets accomplished in cases where there aren’t proactive watershed groups.*

**DEQ Response:** Section 4 of the NPS Management Plan (“Engaging Montanans in Addressing Nonpoint Source Pollution”) provides information on the many aspects of engaging various audiences. Section 4.2 discusses objectives and strategies.

Part of DEQ’s nonpoint source pollution outreach efforts begin during the monitoring and assessment phase of our water quality planning projects when public meetings are held to inform local stakeholders. Outreach continues in the TMDL development process with the establishment of watershed advisory groups, bringing together a diverse group of local citizens that may be able to continue to address NPS pollution. Throughout this process we attempt to engage and empower local communities. This includes everything from providing examples of successful groups, projects, leadership skill development and alternative funding opportunities, to actual group capacity building (e.g. Big Sky Watershed Corps members and host-site funding) and project and education and outreach (“so called “mini-grants”) funding (319 contracts).

## APPENDICES

**Comment:** Appendix D. The map shows the Thompson River WRP as being under development. However, this status for the Thompson does not show up in Table D-2. The Lower Clark Fork Watershed Group is the Sponsor of this effort.

**DEQ Response:** Thank you for pointing out the omission. The Thompson River Watershed Restoration Plan being developed by the Lower Clark Fork Watershed Group has been added to Table D-2.

## COMMENTS NOT REQUIRING A SPECIFIC RESPONSE

The following comments do not require a specific response. DEQ appreciates the positive feedback on the Nonpoint Source Management Plan.

***Comment:** Montana Department of Fish, Wildlife & Parks (FWP) appreciates the opportunity to provide comments on your draft Nonpoint Source Management Plan. We believe the document provides a good summary of Montana’s water quality challenges and we hope to collaborate with DEQ in developing strategies for protecting and improving water quality in Montana waters.*

*Fishery management direction for coldwater fish species was modified from a hatchery supplementation process to a focus on protecting/enhancing aquatic habitat since the 1970’s. FWP ceased stocking trout in most Montana streams and rivers with the assumption that Montana’s rivers were healthy enough to sustain a wild, natural process. Therefore, aquatic habitat protection and enhancement became the agency focus and collaboration with DEQ and local stakeholders became a priority for FWP.*

***Comment:** The draft plan is very well done and accurately represents the current nonpoint source control programs around forestry (Silviculture) activities in Montana.*

***Comment:** The Nonpoint Source Plan is really good. It’s super helpful!*

***Comment:** I appreciated the characterization of the seven categories of NPS sources in chapter 3 to frame the problem.*

***Comment:** Section 3.1.3. Hydrologic Modification Strategies. FWP believes streamflow and water temperature trends represent significant water quality challenges. The DEQ strategy for this issue (Avoid, Restore, Minimize, and Mitigate) provides a strong and realistic direction for streamflow for partnering agencies to consider.*

***Comment:** In section 4.2 I appreciate the philosophy of public engagement throughout the process of TMDL development and support of locally lead E&O efforts.*

***Comment:** I appreciate that there is a whole chapter dedicated to partnerships (section 5). Leveraging resources across organizations and finding common goals is a great way to move the needle with limited resources. In addition, I believe DEQ’s demonstration of interest in collaboration improves public perception of the agency and mission.*

***Comment:** I think the interim outcomes laid out in section 8 make sense for reaching the stated NPS goal. I also appreciate the specific actions and measurable milestones included in the tables and I look forward to seeing the progress reports on this.*

***Comment:** In section 8.2.1 I appreciate the focus on protecting and restoring riparian zones and wetlands. While many of the instream water quality issues we see have their roots in the uplands, properly functioning riparian zones have the potential to mitigate some of the issues from the uplands. Furthermore, degraded riparian zones or those with significant pollutant sources, have a more direct and*

*dramatic effect on stream water quality than upland sources. Hence, while management in the uplands is an important component of addressing instream water quality issues, with limited resources, riparian areas are where the biggest bang for the buck can be accomplished. I also very much support the concept of protecting those areas that are currently functioning well. The more work we can do to keep development out of our floodplains the better off we will be.*

**Comment:** *Section 8-3. DEQ nonpoint source priorities. “DEQ will develop a 20-year strategic vision to prioritize watersheds for focused work.” Currently, the priority watersheds are driven by locations where WRP’s are developed. FWP believes this accurately reflects areas where a group has enough energy and/or funding to work through the process. FWP is committed to assisting DEQ with this long-term strategy, and hope the prioritization process can better incorporate watershed needs.*

Additionally, some text edits were provided by commenters.