MONTANA

LIST OF WATERBODIES IN NEED

OF

TOTAL MAXIMUM DAILY LOAD DEVELOPMENT

1996

INTRODUCTION

With the passage of the 1972 federal Clean Water Act (CWA) the states were to develop Total Maximum Daily Loads (TMDLs) for water quality limited waterbodies that set limits on the loading from point and nonpoint sources. The CWA ∋303(d) and the EPA Water Quality Planning and Management Regulations (40 CFR, Part 130) require each state to:

1. Identify waterbodies that are water quality limited;
2. Prioritize and target those waterbodies;
3. Determine the Total Maximum Daily Load (TMDL) allowable to assure unimpaired water quality and attainment of beneficial uses.

The development of TMDLs uses existing laws, rules and regulations to ensure that water quality standards are met. Voluntary cooperation by the principal sources in a watershed is the preferred method of TMDL development and implementation.

In 1991, the EPA issued its first guidance document describing the TMDL process. All states were required to make a prioritized list of waterbodies that were in need of TMDL development as required by CWA ∋303(d). The list was to be updated biennially. The regional EPA has been directed to promulgate the list if a state fails to do so. Montana has met its ∋303(d) reporting requirements.

A TMDL may use technical tools such as simple or complex comprehensive modeling, biological and physical assessments and water quality monitoring to determine the health of a waterbody and to maintain or improve it. Development of a TMDL requires public involvement and may be the best way to manage complex water quality problems.

The TMDL process described below is an excellent way to fulfill the public policy statement in the Montana Water Quality Act (75-5-101(2)) to "provide a comprehensive program for the prevention, abatement and control of water pollution."

THE TMDL PROCESS

Listing and Prioritization Process

The TMDL process begins with the identification of waterbodies (i.e., streams or lakes) that do not fully meet (or are not expected to meet) water quality standards or are threatened though EPA and state required technology-based controls and Best Management Practices (BMPs) are being used. Threatened waterbodies fully support their designated uses but there is a reasonable expectation that a new activity in the watershed may result in partial or non-support of one or more uses unless proactive steps are taken.

Such streams or lakes are called "water quality limited" and are in need of TMDL development.

The primary database used to compile the list of such waterbodies is the Waterbody System (WBS). The WBS is used to compile use-support information for the Montana Water Quality Report ∋305(b). Information sources used to make support decisions include the following:

- Clean Water Act ∋208 monitoring (Montana Statewide and Area wide Water Quality Management Planning Project)
- Clean Water Act ∋319 monitoring and assessments (Nonpoint Source Pollution Control Program)
- Clean Water Act ∋314 monitoring (Clean Lakes Program)
- Waterbody assessments
- Fixed station monitoring
- Intensive surveys
- Special projects
- Data from other agencies
- Tribal monitoring data
- Volunteer monitoring
- Data from STORET (an EPA-supported national water quality database)

As part of the ∋303(d) listing process, Montana Pollution Discharge Elimination System (MPDES) permits are presented as Appendix A. Although the MPDES permitting (new discharges) and renewal process is similar to Total Maximum Daily Load development, the waterbodies affected by those discharges have not been prioritized based on permitting needs because they are on an independent five year review cycle. MPDES permit effluent limits that are water quality based will be submitted to the EPA for TMDL consideration as they are completed even though the receiving waterbody may be on the low priority list because of other considerations. The parameters of concern associated with each of the MPDES permits and the receiving water are identified in the permit file. TMDL development for waterbodies affected by point and nonpoint sources will address the appropriate modifications to existing permits.

After the waterbodies that are water-quality limited have been identified, they are prioritized and targeted for TMDL development. The prioritization and targeting process are designed to promote input from local organizations (e.g., Conservation Districts or watershed organizations) and industry.

The criteria used to place a waterbody in one of three TMDL development priority categories (high, moderate or low) are:

1. Magnitude of a standard noncompliance or whether the waterbody is an important high-quality resource at an early stage of degradation;
2. Resource value;
3. Size of the waterbody not attaining standards;

4. Whether technology and resources are available to correct the problem;
5. Recommendations obtained through the public review process; and
6. Potential for establishing a Total Maximum Daily Load within two years.

The high-priority waterbodies may be severely out of compliance with standards, may be a human health risk, may have technology and resources available to address the water quality problem with a reasonable certainty in a two-year period, may have been nominated though public input, or strong public support may exist for the establishment and implementation of the control measures required by a TMDL.

Moderate-priority waterbodies may be less severely degraded, may have nonpoint source demonstration projects in the watershed, or the process of carrying out water quality controls will require more than two years. Moderate priority includes waterbodies where significant development is planned and controls in addition to established technology-based controls may be necessary to meet water quality standards.

Low-priority includes the remaining identified waterbodies. As TMDL projects are completed and other factors change, selected waterbodies in this category may be upgraded to high or moderate priority or targeted for TMDL development.

After the draft ∋303(d) list has been developed, a 30-day public notice period will follow. Announcement of the list will be published in the state's major newspapers legal section and sent to organizations that have shown interest in previous lists. The EPA must give final approval of the ∋303(d) list.

The guidelines outlined above were used to list water quality limited waterbodies and to prioritize those waterbodies for TMDL development (Tables 1, 2 and Appendix B).

Delisting Process

Waterbodies identified as water quality limited and are on the ∋303(d) list can be delisted in two ways:

1) A TMDL for the waterbody has been developed and approved by the EPA
or,
2) Reassessment of the waterbody indicates that it is in fact fully supporting all of its beneficial uses.

The waterbody assessment process is intended to, as accurately as possible, describe the use support status of a waterbody. The most recent assessment will be considered to correctly describe the status of a waterbody although it may be completely different from earlier assessments.

TABLE 1

Waterbodies Designated as HIGH Priority for TMDL Development

Waterbody Name	Montana Waterbody Number
Clark Fork River *#	MT76G001-1, 2, 3, 4 and
(Warm Springs Creek to the Flathead River)	MT76M001-1, 2, 3
Silver Bow Creek*	MT76G003-2
(above Warm Springs Ponds)	
Sliver Bow Creek*	MT76G003-1
(below Warm Springs Ponds)	
Mill-Willow Bypass*	MT76G004-12
Warm Springs Creek*	MT76G004-23
Flathead Lake*#	MT76LJ006-1
Swan Lake*#	MT76K002-1
Tenmile Creek#	MT41I006-14
Daisy Creek*	MT43C001-14
Fisher Creek*	MT43D002-11
Soda Butte Creek*	MT43B002-3

* the waterbody is carried over from the 1994 TMDL list
# the waterbody is targeted for TMDL development during the 1996-98 biennium

TABLE 2

Waterbodies Designated as Moderate Priority for TMDL Development

Waterbody Name	Montana Waterbody Number
Godfrey Creek*	MT41H002-2
Big Otter Creek*	MT41Q004-5
Butcher Creek*	MT43C001-8
Otter Creek*	MT43B004-1
Big Spring Creek*	MT41S004-1, 2
East Spring Creek*	MT76LJ010-2
Musselshell River*	MT40A001-1
Ninemile Creek*	MT76M002-25
Threemile Creek*	MT76H002-29
Elkhorn Creek*	MT41D004-5
Blackfoot River*	MT76F001-1, 2, 3
Nevada Lake*	MT76F003-2
Nevada Creek*	MT76F002-8
Rock Creek*	MT76N003-19
Libby Creek*	MT76D002-6

Stillwater River*	MT43C001-11, 12
East Boulder River*	MT43BJ001-2
Whitefish Lake*	MT76LJ011-1

* the waterbody has been carried over from the 1994 list

General Outline of TMDL Development

Beneficial uses in many of Montana's streams, rivers and lakes are not adequately protected by standard treatment levels at some sewage plants and industrial wastewater plants. Similarly, some waters are affected by nonpoint sources, such as agricultural and forest harvest runoff that does not have adequate BMPs (best management practices) in place to assure that water quality standards are met. Point and nonpoint sources commonly affect the same waterbody. These polluted streams, rivers, and lakes are called, "water quality limited" waterbodies.

A waterbody may be water quality limited by one or more parameters (e.g., nutrients and dissolved oxygen). An example of a water quality limited waterbody might read as follows:

> A stream that has received excessive nutrient loading (nitrogen and phosphorus) from several nonpoint sources and receives the discharge from a municipal wastewater treatment plant, has experienced nuisance algae growth and dissolved oxygen (DO) sags below criteria established for the stream. The treatment plant has a current Montana Pollution Discharge Elimination System (MPDES) permit and several nonpoint source pollution BMPs are in place along the stream corridor.

Such a stream should be on the э303(d) list because it is not meeting descriptive water quality standards for recreation and swimming (nuisance algae growth) and the numeric criteria for dissolved oxygen.

A TMDL consists of three general components: ***waste load allocations*** (WLAs) for point sources of pollution, ***load allocations*** (LAs) for nonpoint sources of pollution, and a ***margin of safety*** (MOS) which incorporates the uncertainty in making the other allocations. All sources of a parameter are either explicitly assigned an allocation or implicitly included in a general allocation or MOS. Natural or background levels are included in the allocation process.

Collectively the steps used to develop appropriate loads and management plans to meet the water quality goals are commonly called the TMDL process. The sequence of events includes:

1. Identify and prioritize waterbodies that are not fully supporting their designated uses or are threatened;

2. Identify causes and sources;
3. Determine the maximum amount of a parameter a waterbody can assimilate;
4. Allocate portions of the total load to each source (natural sources and a margin of safety are included in the allocation procedure);
5. Develop and carry out a watershed plan to achieve the desired goals;
6. Public participation is requested during all stages of the listing, prioritization, and TMDL development.

The flow chart (Figure 1) shows two approaches to develop a TMDL, depending on how much data is available.

Approach One

With abundant data (left side of Figure 1), a TMDL may be calculated and the appropriate WLA, LA and MOS assigned. The modeling techniques used may be simple or complex. After EPA approval and application of the necessary controls, a follow-up monitoring program would be developed to ensure that water quality standards are met.

Approach Two

A more common scenario for establishing a TMDL, especially when nonpoint sources are present, is the phased approach (right side of Figure 1). Available data are used in the first go-around of WLA, LA and MOS determinations. The MOS is often large, reflecting the lack of information or the uncertainty associated with the models used.

In the next phase(s), additional monitoring data and Best Management Practice (BMP) evaluations are used to develop a management and control plan, refine modeling components and revise the WLA, LA and MOS as necessary.

The "final" control strategy and TMDL need EPA approval before implementation. Follow-up monitoring of the waterbody is a major component in this process and is necessary to determine the effectiveness of the proposed WLAs on the permitted sources and the BMPs applied to the nonpoint sources. The monitoring program results are evaluated and adjustments to the "final" TMDL are made as necessary.

Throughout each of the approaches, the public and the EPA are involved. Public input can be in the form of suggested waterbody listing, priority establishment, or comments about the WLAs and LAs used to establish the Total Maximum Daily Load. The EPA provides oversight and final approval of the ɔ303(d) list and TMDL plans.

Modifications to the 1996-1998 Priority Listing

All waterbodies listed as moderate, high or targeted for TMDL development during 1994-96 have been carried over to the 1996-98 reporting period. Except for Deep Creek (a tributary to the Missouri near Townsend) for which a TMDL was completed

and is no longer listed.

TMDL development for the Swan Lake watershed (1994-96 high priority) began during the fall of 1996. Technical assistance and funding has been received from the Region 8 EPA and EPA headquarters to begin the process.

TMDL development for Tenmile Creek (1994-96 low priority) near Helena began during the spring of 1995. The Tenmile creek TMDL addresses urban storm water and wetland treatment. Funding for this TMDL was granted by Region 8 EPA specifically for this type of watershed impact. The available funding and willingness of the Lewis and Clark Water Quality Protection District and City of Helena to coordinate and do the work justified elevating the Tenmile Creek priority.

During the three public meetings held during the first week of December 1996 to describe the 303(d) listing process, comments were voiced questioning the appropriateness of the low priority listing of waterbodies for TMDL development when the only source identified was "natural." The Department has reviewed the objectives and purpose of the TMDL process and water quality standards and has decided that the 28 waterbodies identified as not fully supporting uses solely because of "natural" sources indeed should not be on the 1996 list of waterbodies in need of TMDL development. These waterbodies are in need of reassessment and if necessary their use classification should be modified to reflect their natural condition.

The Department response to written comments received are in Appendix C.

Ongoing TMDL Project Updates

Clark Fork River Basin

DEQ is experimenting with a cooperative, voluntary approach to nutrient controls in the Clark Fork River Basin instead of a permit-based approach. Approximately 240 miles of the Clark Fork River have been listed as water quality-limited due to a nuisance algae problem caused by excessive instream concentrations of phosphorus and nitrogen and has been listed since 1992 as a high priority for TMDL development.

The Tri-State Implementation Council is coordinating the development of the Clark Fork River Voluntary Nutrient Reduction Program (VNRP). The Council is charged with implementing a nutrient management plan for the 26,000 square mile Clark Fork-Pend Oreille watershed mandated by Congress in the 1987 amendments to the federal Clean Water Act. Representation on the Council includes business, industry, citizen groups, local government, Indian tribes and state and federal agencies from the Montana, Idaho and Washington portions of the basin. A TMDL subcommittee has taken the lead in formulating the Clark Fork River nutrient control plan over the past two years following a challenge by Montana DEQ to develop a stakeholder-driven strategy to control nutrient-caused water

use impairment. DEQ's initial attempt to develop a permit-based TMDL in 1994 was immediately unpopular with municipal and industrial dischargers.

The Clark Fork nutrient VNRP consists of two elements: 1) A water quality restoration component that controls nutrient-caused water use impairment over the relative short term by focusing on nutrient reductions at four key point source discharges. These four sources account for 70-80 percent of the phosphorus and nitrogen loading to the river during the summer period, when nuisance algae problems are worst; and, 2) a water quality protection component that maintains the improvements into the future by controlling nutrient loading from nonpoint sources and new development activities. The Clark Fork VNRP will include a signatory page which reflects commitment by all parties to implement the plan over a ten year period. The Clark Fork VNRP emphasizes cost-effective and innovative solutions wherever possible, such as irrigating hay crops with municipal wastewater.

Public hearings were held on the draft strategy at several locations in the watershed this past July. The Clark Fork VNRP is expected to be finalized and signed by all parties later this fall at which time DEQ will submit the plan to the EPA for approval.

Tenmile Creek

Very little is known about Helena's stormwater runoff quality or its impact upon Tenmile Creek or the Helena Valley aquifer. This TMDL will address several questions including:

I. Can stormwater be adequately treated through the use of wetlands in Helena's cold weather climate?

II. Has stormwater that flows into detention basins and wetland areas impacted adjacent groundwater?

III. Determine the impact of stormwater upon Tenmile Creek.

The Water Quality Protection District has located several sites for the installation of shallow groundwater wells. Samples from these wells will be analyzed for a variety of parameters to characterize present conditions. Samples will also be collected during several runoff events for the same set of parameters.

The small wetland in the study area that has been receiving most of the stormwater will be sampled for a similar set of parameters.

Several other projects in the Tenmile Creek watershed are underway or are being submitted to grant sources and the state legislature. These include:

I. Completion of a master's thesis project that scientifically characterized the upper watershed.

II. A watershed planning effort directed by the Upper Tenmile Watershed Steering Group.

III. Collection of additional water quality samples along the creek.

IV. Conducting a stream inventory of lower Tenmile Creek.

V. Begin Phase I of a stream stabilization project of an abandoned mine site that currently impacts Tenmile Creek during high flows.

VI. Presenting a grant for Phase II of the stream stabilization project to the 1997 state legislature.

Swan Lake Watershed

Swan Lake was identified as a high priority for TMDL development on the 1994 list. A recent study that was part of the Montana Clean Lakes program found very low dissolved oxygen concentrations in a deep basin at the southern end of the lake. The lake has been considered an oligotrophic or a low productivity waterbody, so the measured dissolved oxygen concentrations were very surprising and of concern. Land use activities in the watershed above the lake were suggested to be the source of the sediment and organic material that were consuming the deep lake oxygen. The mechanism causing the deficit, its extent and stability are unanswered questions.

The Friends of the Swan and other watershed environmental organizations are very concerned about further degradation of the lake and have been instrumental in starting the TMDL process.

To date, a public meeting has been held in Swan Lake to discuss the results of the Swan Lake study, the Flathead Basin Commission's existing water quality monitoring program and future needs for monitoring in the Swan watershed. A steering committee will likely be formed to provide local input to the process. Technical assistance and a $30,000 grant from the EPA has been received for use in the watershed. Private industry has also contributed to the monitoring efforts of Swan Lake and other lakes in the Swan and Flathead watersheds.

Deep Creek

Deep Creek flows into the Missouri River near Townsend and is one of very few trout spawning streams between the Toston Dam and Canyon Ferry reservoir. Deep Creek has been the focus of substantial efforts to address the decline in the Missouri River/Canyon Ferry Reservoir trout fishery. Landowner and agency interest that include the Broadwater County Conservation District, the Broadwater County Irrigation District, Montana Fish, Wildlife and Parks and DEQ, has resulted in several cooperative efforts to improve the conditions in the watershed.

The TMDL project was funded by a grant from the EPA and was done by Ms. Carol Endicott and Mr. Thomas McMahon of the Fish and Wildlife Program at Montana State University-Bozeman.

The TMDL used the extensive existing information base to establish water quality goals for total suspended solids, stream habitat, substrate embeddedness, water temperature, flow and the number of spawning trout.
The TMDL has been approved by Region 8 EPA. This is the first official TMDL for the state of Montana.

Work funded by a nonpoint source pollution control program grant is underway to implement some of the recommendations in the TMDL.

Appendix A

Montana Pollution Discharge Elimination System (MPDES) Permits & Storm water Permits

Facility	Permit #	Expires	Receiving Waters
ABSAROKEE SEWER DISTRICT	MT0021750	1/31/00	ROSEBUD CREEK
AIR LIQUIDE AMERICA CORP	MT0000426	08/31/01	PRICKLY PEAR CREEK
ALBERTON-TOWN OF	MT0021555	11/30/97	CLARK FORK RIVER
AMOCO PRODUCTION COMPANY	MTG310025	12/31/00	UNNAMED DRAINAGE OF SILVER TIP CREEK
ASARCO, INC. (MIKE HORSE)	MT0030031	08/31/99	MIKE HORSE, BEARTRAP CKS, BLACKFOOT R
ASH GROVE CEMENT COMPANY	MT0000451	10/31/00	PRICKLY PEAR CREEK
BAKER, CITY OF	MTG580029	05/31/98	YELLOWSTONE RIVER
BARRETTS MINERALS, INC.	MT0029891	11/30/96	STONE CREEK
BASIN CREEK MINING INC	MT0028690	03/31/99	GRUB AND MONITOR CREEKS
BASIN EXPLORATION INC.	MTG310028	12/31/00	STOCK PONDS
BEAL MOUNTAIN MINING, INC.	MT0030121	01/30/00	GERMAN GULCH
BELT	MT0021571	10/31/00	BELT CREEK
BEREN CORPORATION	MTG310010	12/31/00	UNNAMED SLOUGH
BERENERGY CORPORATION	MTG310002	12/31/00	UNNAMED DRAINAGE TO JOHNSON CREEK
BIG FORK	MT0020397	02/27/00	FLATHEAD LAKE
BIG SANDY-TOWN OF	MT0022454	01/30/00	BIG SANDY CREEK
BIG SKY COAL COMPANY	MT0000884	01/31/01	ROSEBUD CREEK DRAINAGES
BIG TIMBER-CITY OF	MT0020753	08/31/00	BOULDER RIVER
BILLINGS- CITY OF	MT0022586	05/31/93	YELLOWSTONE RIVER
BILLINGS, CITY OF	MT0029921	01/31/97	PIONEER CREEK
BILLION, J.C., INC	MT0029696	08/31/95	BAXTER CREEK
BOULDER HOT SPRINGS	MT0023639	12/31/97	LITTLE BOULDER RIVER
BOULDER-TOWN OF	MT0023078	01/30/00	BOULDER RIVER
BOZEMAN- CITY OF (WTP)	MT0030155	08/31/00	BOZEMAN CREEK
BOZEMAN-CITY OF	MT0022608	05/31/93	EAST GALLATIN RIVER
BRADY COUNTY WATER DISTRICT	MTG580022	05/31/98	SOUTH PONDERA COULEE
BRAND-S LUMBER	MT0029815	09/30/96	YELLOWSTONE RIVER
BRIDGER, TOWN OF	MT0020303	07/31/99	CLARKS FORK YELLOWSTONE RIVER
BROADUS, TOWN OF	MTG580015	05/31/98	POWDER RIVER
BROCKTON-TOWN OF	MT0023001	04/30/00	MISSOURI RIVER
BROWNING-TOWN OF	MT0023477	03/31/00	DEPOT & WILLOW CREEK
BURLINGTON NORTHERN -- WHITEFISH	MT0000019	11/30/97	KOOTENAI RIVER
BUTTE-SILVER BOW, CITY&COUNTY	MT0022012	10/31/00	SILVER BOW CRK
CABLE MOUNTAIN MINE, INC.	MT0029653	07/31/00	CABLE CREEK
CASCADE-TOWN OF	MT0021954	01/30/00	MISSOURI RIVER
CENEX	MTG310024	12/31/00	UNNAMED DRY COULEE OF MUSSELSHELL R
CENEX (PRODUCED WATER)	MTG310003	12/31/00	UNNAMED DRAINAGE
CENEX-(LAUREL REFINERY)	MT0000264	12/31/98	YELLOWSTONE RIVER
CHESTER-TOWN OF	MT0020338	01/30/00	COTTONWOOD RIVER
CHINOOK- CITY OF	MT0020125	09/30/00	MILK RIVER
CHOTEAU- CITY OF	MT0020052	10/31/00	TETON RIVER
CIRCLE- TOWN OF	MT0020796	01/31/99	REDWATER RIVER
COLUMBIA FALLS ALUMINUM CO.	MT0030066	02/28/99	FLATHEAD RIVER
COLUMBIA FALLS - CITY OF	MT0020036	08/31/00	FLATHEAD RIVER
COLUMBUS, TOWN OF	MTG580018	05/31/98	YELLOWSTONE RIVER
COMINCO AMERICAN, INC.	MT0029971	09/30/97	ALDER GULCH CREEK
CONOCO INC. (BILLINGS REFINERY)	MT0000256	02/28/99	YELLOWSTONE RIVER
CONOCO, INC	MT0029742	10/31/00	YELLOWSTONE RIVER VIA YEGEN DRAIN
CONRAD- CITY OF	MT0020079	12/31/99	DRY FORK MARIAS RIVER
HAMILTON- CITY OF	MT0020028	11/30/00	BITTERROOT RIVER
HANOVER GOLD CO.	MT0029823	09/30/96	ALDER CREEK
HARDIN- CITY OF	MT0020834	12/31/99	BIGHORN RIVER
HARDIN, CITY OF	MT0029947	07/31/96	TONGUE RIVER RESERVOIR
HARLEM-CITY OF	MT0021270	01/30/00	MILK RIVER
HARLEM-CITY OF (WTP)	MT0000931	01/31/98	MILK RIVER
HARLOWTON- CITY OF	MT0020354	12/31/99	MUSSELSHELL RIVER
HARLOWTON, CITY OF	MT0000400	07/31/99	SLOUGH TO MUSSELSHELL RIVER
HAVRE-CITY OF	MT0022535	01/30/00	MILK RIVER
HAWKINS, ROBERT,INC.	MTG310001	12/31/00	HUNT COULEE
HELENA-CITY OF	MT0022641	09/30/97	PRICKLY PEAR CREEK
HELENA-CITY OF (WTP)	MT0000949	09/30/96	PRICKLY PEAR CREEK
HELENA, CITY OF (WTP)	MT0028720	11/30/99	TEN MILE CREEK
HIGHWOOD SEWER DISTRICT	MT0022080	01/31/99	HIGHWOOD CREEK
HILLBROOK NURSING HOME	MT0023566	11/30/96	PRICKLY PEAR CREEK
HOBSON- TOWN OF	MT0021636	02/28/01	UNNAMED DRAINAGE OF JUDITH RIVER
HOLLY SUGAR CO	MT0000248	05/31/95	YELLOWSTONE RIVER RIVER VIA R.R. DITCH
HOLNAM, INC.	MT0000485	03/31/96	MISSOURI RIVER
HOT SPRING, TOWN OF	MT0030198	04/30/00	HOT SPRINGS CREEK
HYSHAM- CITY OF	MT0021709	02/27/00	YELLOWSTONE RIVER
JANETSKI, LEE	MT0025071	07/31/95	MISSOURI RIVER
JH OIL COMPANY	MTG310020	12/31/00	UNNAMED COULEE
JOHN R. DAILY, INC.	MT0000094	09/30/97	CLARK FORK RIVER
JOLIET- TOWN OF	MT0020249	01/31/97	ROCK CREEK
KALISPELL-CITY OF	MT0021938	07/31/93	ASHLEY CREEK
KEESUN CORPORATION	MTG310009	12/31/00	STOCK TANKS & EVAPORATION PITS
KEVIN- TOWN OF	MT0030244	12/31/00	UNNAMED DRY LAKE BED
KIPLING ENERGY, INC.	MTG310016	03/31/95	STOCK POND
KNIFE RIVER COAL MINING CO.	MT0023604	12/31/99	YELLOWSTONE RIVER
LAUREL- CITY OF	MT0020311	12/31/99	YELLOWSTONE RIVER
LAUREL- CITY OF (WTP)	MT0030261	09/30/00	YELLOWSTONE RIVER
LAVINA, TOWN OF	MTG580013	05/31/98	MUSSELSHELL RIV
LEWISTOWN- CITY OF	MT0020044	12/31/99	BIG SPRING CREEK
LIBBY- CITY OF	MT0020494	08/31/00	KOOTENAI RIVER
LIVINGSTON- CITY OF	MT0020435	05/31/98	YELLOWSTONE RIVER
LIVINGSTON, CITY (SWIMMING)	MT0028118	07/31/95	FLIESHMAN CREEK
LODGE GRASS- TOWN OF	MT0021890	06/30/01	LITTLE BIGHORN RIVER
LOLO WATER & SEWER DISTRICT	MT0020168	04/30/98	BITTERROOT RIVER
LUZENAC AMERICA,INC.	MT0026794	08/31/00	UNNAMED WETLAND,TRIB.TO MADISON R
LUZENAC AMERICA,INC.	MT0027821	10/31/94	UNNAMED TRIB MIDDLE FORK STONE CK.
LUZENAC AMERICA, INC.	MT0028584	08/31/97	JOHNNY GULCH CREEK
LUZENAC AMERICA,INC.	MT0028932	07/31/00	UNNAMED DRAIN OF BLACKTAIL DEER CRK
M & W MILLING & REFINING,INC.	MT0030015	07/31/98	GROUND WATER NEAR ALDER GULCH
MAGELLAN RESOURCES CORP.	MT0028860	01/30/00	NORTH FORK OF FLINT CK.
MALTA READY MIX	MTG490005	03/31/98	IRRIGATION CANAL TO MILK RIVER
MALTA- CITY OF	MT0020389	01/30/00	MILK RIVER
MANHATTAN-CITY OF	MT0021857	01/31/98	GALLATIN RIVER
MEDICINE LAKE, TOWN OF	MTG580024	05/31/98	BIG MUDDY CREEK
MILES CITY- CITY OF	MT0020001	12/31/99	YELLOWSTONE RIVER
MISSOULA-CITY OF	MT0022594	03/31/93	CLARK FORK RIVER

Facility	Permit #	Expires	Receiving Waters
MT FISH & GAME JOCKO FISH HT	MTG130010	01/31/95	JOCKO RIVER
MONT SULPHUR & CHEMICAL CORP	MT0000230	03/31/97	DRY CREEK
MONT-GALEN STATE HOSP	MT0021431	01/31/96	CLARK FORK RIVER
MT AVIATION RESEARCH CO.	MT0029980	12/31/97	E. FORK CHERRY CK VIA SPRING COULEE
MT FISH & GAME YELLOWSTONE	MTG130011	01/31/95	YELLOWSTONE RIVER
MONTANA FISH & GAME-BLUEWATER	MTG130012	01/31/95	BLUEWATER CREEK
MONTANA FISH & GAME-FLATHEAD	MTG130014	01/31/95	FLATHEAD LAKE
MONTANA FISH & GAME-WASHOE	MTG130013	01/31/95	WARM SPRINGS CREEK
MONTANA GOLD & SAPPHIRES INC.	MT0025020	10/31/98	MISSOURI RIVER
MONTANA POWER CO - BIRD/CORETT	MT0000396	01/30/00	YELLOWSTONE RIVER
MONTANA POWER CO.- HAUSER DAM	MT0020648	02/27/00	MISSOURI RIVER
MONTANA POWER CO-MADISON DAM	MT0023167	11/30/00	MADISON RIVER
MT POWER CO PRODUCED H20 RESERVOIR	MTG310022	12/31/00	STOCK TANK OR RESERVOIR
MONTANA POWER CO-RAINBOW DAM	MT0023027	02/27/00	MISSOURI RIVER
MT RAIL LINK	MT0000388	11/30/00	YELLOWSTONE RIVER
MONTANA RAIL LINK (LAUREL)	MT0000353	01/31/98	YELLOWSTONE RIVER
MT REFINING CO-BLACKEAGLE	MT0000434	01/31/99	MISSOURI RIVER
MT RESOURCES	MT0000191	10/31/98	SILVER BOW CREEK
MONTANA ROSE & FLORAL, INC.	MT0028843	01/30/00	MOORE'S CREEK
MONTANA STATE HOSPITAL-WARM SP	MTG58004	05/31/98	CLARK FORK RIVER
MONTANA TUNNELS MINING,INC.	MT0028428	12/31/96	SPRING CREEK
MT TUNNELS MINING,INC.	MT0028908	10/31/99	CLANCY CREEK
MONTANA-DAKOTA UTILITIES CO.	MT0000302	12/31/99	YELLOWSTONE RIVER
MONTCO	MT0028088	06/30/95	TONGUE RIVER
MOUNTAIN, INC.	MT0028983	10/31/99	EPHEMERAL TRIBUTARIES ABV REHDER CK
MSE INC (LILY /ORPHAN BOY MINE)	MT0030082	12/31/97	TELEGRAPH CREEK
MT DEPT FW&P-BIG SPRINGS FH	MTG130003	01/31/95	HANSON CREEK
MT DEPT FW&P-BIG SPRINGS FH LU	MTG130004	01/31/95	BIG SPRING CRK
MT DEPT FW&P GIANT SPRINGS FH	MTG130002	01/31/95	MISSOURI RIVER
MT DEPT FW&P MURRAY SPRINGS FH	MTG130001	01/31/95	KAKE KOOCANUSA
MT DFWP - MILES CITY HATCHERY.	MT0028827	02/27/00	TONGUE RIVER
NORTHERN PLAINS NATURAL GAS CO	MT0025992	07/31/96	VARIOUS SITES ALONG PIPELINE
OMIMEX PETROLEUM, INC.	MTG310014	12/31/00	STOCK WATERING IN WEED CREEK DRAINAGE
OUTLOOK COUNTY SEWER AND WATER	MTG580026	05/31/98	PLENTYWOOD CREEK
PAC ENTERPRISES	MTG310029	12/31/00	STOCK PONDS
PARK CITY -STILLWATER CO COMM.	MTG580007	05/31/98	YELLOWSTONE RIVER
PARK COUNTY COMM. (GARDINER)	MT0022705	12/31/99	YELLOWSTONE RIVER
PHILIPSBURG, TOWN OF	MTG580005	05/31/98	FLINT CREEK
PLENTYWOOD, CITY OF	MTG580008	05/31/98	BIG MUDDY CREEK
POLSON- CITY OF	MT0030228	02/27/00	FLATHEAD RIVER
POPLAR, CITY OF	MT0021695	06/30/94	MISSOURI RIVER
PROMETHEUS GOLD INC	MT0027316	01/31/97	JENNIES FORK
RED LODGE, CITY OF	MTG580009	05/31/98	ROCK CREEK
RICHLAND COUNTY-SAVAGE LAGOON	MT0024783	10/31/00	YELLOWSTONE RIVER
ROCKER WATER & SEWER DISTRICT	MT0027430	03/31/00	SILVER BOW CRK
ROCKY MOUNTAIN LABORATORIES	MT0028487	03/31/97	SLOUGH-BITTERROOT RIVER CHANNEL
ROCKY MOUNTAIN OPERATING CO.	MT310023	12/31/00	DRY DRAINAGE
RONAN- CITY OF	MT0030236	02/27/00	CROW CREEK
ROSEBUD CO COMM	MT0022373	05/31/94	ARMELLS CREEK
ROUNDUP, CITY OF	MT0030295	06/30/01	MUSSELSHELL RIVER
SACO, TOWN OF	MTG580012	05/31/98	BEAVER CREEK
SAINT IGNATIUS, TOWN OF	MT0030201	03/31/00	MATT CREEK
SHELBY, CITY OF	MTG580006	05/31/98	MARIAS RIVER
SHERIDAN- TOWN OF	MT0022098	01/31/01	INDIAN CREEK
SOMONT OIL COMPANY, INC.	MTG310017	12/31/00	UNNAMED DRY DRAINAGE
SOMONT OIL COMPANY, INC.	MTG310026	12/31/00	UNNAMED DRAINAGE
SPRING CREEK COAL COMPANY	MT0024619	08/31/96	UNNAMED TRIB TO SPRING CREEK
STAMPEDE PACKING COMPANY	MT0028410	10/31/96	ASHLEY CREEK
STANFORD- TOWN OF	MT0022161	05/31/96	SKULL CREEK
STEVENSVILLE-TOWN OF	MT0022713	11/30/00	BITTERROOT RIVER
STILLWATER MINING CO	MT0024716	03/31/91	STILLWATER RIVER
STILLWATER PGM RESOURCES	MT0026808	02/28/93	EAST BOULDER RIVER
STIMSON LUMBER CO. BONNER MILL	MT0000205	10/31/98	BLACKFOOT RIVER
STIMSON LUMBER CO.(LIBBY MILL)	MT0000221	02/28/95	KOOTENAI RIVER
STOCKETT WATER & SEWER DIST.	MT0030091	05/31/99	COTTONWOOD CREEK
STONE CONTAINER CORP	MT0000035	02/28/98	CLARK FORK RIVER
STOVALL OIL COMPANY	MTG310011	12/31/00	STOCK RESERVOIR
SUN PRAIRIE VILLAGE W&S DIST.	MT0028665	01/30/00	SUN RIVER
SUNBURST- TOWN OF	MT0021679	03/31/00	UNNAMED LAKE
SUPERIOR- CITY OF	MT0020664	12/31/97	CLARK FORK RIVER
TERRY, TOWN OF	MTG580017	05/31/98	YELLOWSTONE RIVER
THOMPSON FALLS- TOWN OF	MT0021784	02/27/00	CLARK FORK RIVER
THREE FORKS- TOWN OF	MT0020401	12/31/94	MADISON RIVER
TOOLE COUNTY COMMISSIONERS	MTG580010	05/31/98	UNNAMED DRY LAKE
TOWN PUMP INC.	MTG790008		FLATHEAD LAKE
TOWNSEND, CITY OF	MTG580020	05/31/98	MISSOURI RIVER
TRIANGLE PACKING, INC.	MT0029807	08/31/96	TETON RIVER
TVX MINERAL HILL MINE	MT0030252	01/31/01	BEAR CREEK
TWIN BRIDGES, TOWN OF	MT0028797	06/30/99	BAYERS IRR DITCH VIA JEFFERSON RIVER
UNIVERSITY OF MONTANA	MT0030210	03/31/00	FLATHEAD LAKE
USBOR-CANYON FERRY CAMP	MT0020605	11/30/00	MISSOURI RIVER (HAUSER LAKE)
USBOR-CANYON FERRY PPL	MT0020061	01/30/00	MISSOURI RIVER
USBOR-HUNGRY HORSE	MT0022578	01/30/00	SOUTH FORK OF THE FLATHEAD RIVER
USCOE - LIBBY DAM	MT0022390	12/31/99	KOOTENAI RIVER
USDOI-FWS-BOZEMAN NFH	MTG130006	01/31/95	BRIDGER CREEK
USDOI-FWS-CRESTON NFH	MTG130007	01/31/95	MILL CREEK
USDOI-FWS-ENNIS NFH	MTG130008	01/31/95	BLAINE SPRG CRK
VALIER- TOWN OF	MT0021792	07/31/00	UNNAMED EPHEMERAL DRAINAGE
VALLEY COUNTY	MT0020656	02/28/01	MILK RIVER

Facility	Permit #	Expires	Receiving Waters
(HINSDALE)			
VALLEY COUNTY SID #2	MTG580027	05/31/98	MILK RIVER
VAUGHN SEWER DIST	MT0021440	03/31/97	SUN RIVER
VIGILANTE RESOURCES, INC	MT0029700	09/30/95	ALDER GULCH CREEK
W GLENDIVE - SEWAGE LAGOON	MT0021733	12/31/98	YELLOWSTON RIVER
WESTERN ENERGY CO-ROSEBUD MINE	MT0023965	01/31/98	ARMELLS & ROSEBUD CREEKS
WESTERN SUGAR	MT0000281	09/30/96	YELLOWSTONE RIVER
WESTMORELAND RESOURCES - SARPY	MT0021229	07/31/97	SARPY CREEK DRAINAGE
WHITE SULPHUR SPRINGS	MTG580021	05/31/98	LONE WILLOW CREEK
WHITEFISH- CITY OF	MT0020184	03/31/01	WHITEFISH RIVER
WHITEHALL- TOWN OF	MT0020133	12/31/00	BIG PIPESTONE CR
WIBAUX- TOWN OF	MT0020516	10/31/00	BEAVER CREEK
WILLOW CREEK SEWER DIST	MT0025038	07/31/95	JEFFERSON RIVER
WINNETT- TOWN OF	MT0020702	10/31/00	MCDONALD CREEK
WOLF POINT- CITY OF	MT0020532	01/30/00	MISSOURI RIVER
YELLOWSTONE ENERGY LTD. PART.	MT0030180	10/31/00	YELLOWSTONE RIVER
YELLOWSTONE TREATMENT CENTERS	MT0020460	12/31/00	CANYON CREEK
ZORTMAN MINING INC	MT0024856	10/31/91	GLORY HOLE & E. FORK RUBY CREEKS
ZORTMAN MINING INC	MT0024864	10/31/91	KING CREEK

Facility	Permit #	Expires	Receiving Waters
AFFCO, INC	MTR000068	11/30/94	WARMS SPRINGS CREEK
AIRCO GASES	MTR000302		
ALCOTECH INDUSTRIES	MTR000273	11/30/94	SIXTEEN MILE CREEK
ALPINE LOG HOMES	MTR000260	11/30/94	BITTERROOT RIVER
AMERICAN COLLOID CO	MTR300103		
AMERICAN COLLOID CO	MTR300104		
AMERICAN CONTRACTING INC	MTR300221		
AMERICAN GEM	MTR300202		
AMOCO PRODUCTION COMPANY	MTR300072	08/31/97	SILVERTIP CREEK
ANDERSON STEEL SUPPLY, INC	MTR000195	11/30/94	MISSOURI RIVER APPROX. 3/4 MILE
ARCO	MTR000359		
ASARCO INC	MTR300080	08/31/97	FLINT CREEK DRAINAGE
ASARCO INCORPORATED	MTR000072	11/30/94	PRICKLY PEAR CREEK
ASH GROVE CEMENT COMPANY	MTR300113		PRICKLEY PEAR CREEK
ASSOCIATED FOOD STORES INC	MTR000297		
BARRETTS MINERALS INC	MTR300136	08/31/97	CARTER CREEK
BARRETTS MINERALS INC	MTR300160		
BARRETTS MINERALS, INC	MTR300135	08/31/97	LEFT FORK OF STONE CREEK
BEACH TRANSPORTATION	MTR000400		
BEAL MOUNTAIN/PEGASUS GOLD	MTR300083	08/31/97	GERMAN CREEK
BENTONITE CORPORATION	MTR300092	08/31/97	THOMPSON CREEK
BIG BOY TRUCKING	MTR000167	11/30/94	SOURDOUGH CREEK
BILLINGS GENERATION	MTR000364		
BILLINGSLEY PLACER MINE	MTR300173	08/31/97	LOLO CREEK
BIOLOGICAL EXTRACTION TECH	MTR000319		
BLACK HILLS TRUCKING	MTR000102	11/30/94	CLOVER CREEK
BORDENS - MEADOW GOLD DAIRY	MTR000077	11/30/94	MISSOURI RIVER
BORDER STEEL & RECYCLING	MTR000186	11/30/94	SEVEN MILE CREEK
BOUMA POST YARDS, INC	MTR000047	11/30/94	FLESCHER LAKES
BOZEMAN AUTO SALVAGE	MTR000212	11/30/94	WEST GALLATIN RIVER --2MILES
BOZEMAN LIVESTOCK SALES CO INC	MTR000244	11/30/94	
BROWNING FERRIS INDUSTRIES	MTR000320		
BROWNING FERRIS INDUSTRIES	MTR000323		
BURLINGTON NORTHERN RAILROAD	MTR000314		
BURLINGTON NORTHERN RAILROAD	MTR000362		
CENTURY CONSTRUCTION CO INC	MTR000205	11/30/94	PRIVATE POND - 3/4 MILE E.
CF MOTORFREIGHT	MTR000276	11/30/94	SUN RIVER
CHARTER OAK MINING COMPANY	MTR300127	08/31/97	LITTLE BLACKFOOT RIVER
CITY OF BILLINGS	MTR000380		
CITY OF FORT BENTON	MTR300191		
CITY OF GLENDIVE	MTR000387		
CITY OF HARDIN	MTR000374		
CITY SERVICE INC	MTR000143	11/30/94	ASHLEY CREEK
CLARK FORK CONCRETE INC	MTR000036	11/30/94	NATURAL SPRING 400 FT
COMMERCIAL CARRIERS INC	MTR000360		
CONDA MINING	MTR300007		PIPESTONE CREEK
CONSOLIDATED FREIGHTWAYS	MTR000282		
CONSOLIDATED FREIGHTWAYS	MTR000347		
CONSOLIDATED FREIGHTWAYS	MTR000348		
CONSOLIDATED FREIGHTWAYS	MTR000356		
CONTINENTAL LIME, INC	MTR000090	11/30/94	INDIAN CREEK TOWARD MISSOURI R
CR KENDALL CORPORATION	MTR300026	08/31/97	DOG CRK,LITTLE DOG CRK, BARNES KNGG
CROWN PACIFIC LTD	MTR000105		CLARK FORK RIVER
CROWN PARTS & MACHINE INC	MTR000009	11/30/94	IRRIGAT. DITCH TO N. - LOCKWOOD CANAL
D & M WATER SERVICE, INC	MTR000184	11/30/94	SAND STONE CREEK
DANA'S BAR MINING	MTR300183		
DANDY GOLD	MTR300159		
DAVIS TRANSPORT INC	MTR000023		CLARK FORK RIVER
DEPT OF AIR FORCE	MTR000197	11/30/94	OPEN DITCH TO MISSOURI
DICK IRVIN, INC	MTR000128	11/30/94	US HIGHWAY 2 DRAIN DITCH
DILLON EXPLORATION	MTR300194		
DIVERSIFIED TRANSFER & STORAGE	MTR000070	11/30/94	YELLOWSTONE RIVER
DIXON BROTHERS INC	MTR000044		YELLOWSTONE RIVER
DIXON BROTHERS INC	MTR000045		MISSOURI RIVER
DIXON BROTHERS INC	MTR000046		CLARK FORK RIVER
DODD'S WHOLESALERS INC	MTR000022	11/30/94	CUT BANK RIVER
DONALDSON BROTHERS READY MIX	MTR000083	11/30/94	BITTERROOT R 1/2 MILE E.
DOUBLE J FREIGHTLINE INC	MTR000021	11/30/94	WILLOW CREEK
E H OFTEDAL & SONS, INC	MTR000196	11/30/94	ARMELLS CREEK .1 MILE
ED MARKS TRUCKING	MTR000120	11/30/94	SPRING CREEK
EMPIRE SAND & GRAVEL CO INC	MTR300002		
EMPIRE SAND & GRAVEL CO INC	MT300179		
EMPIRE SAND AND GRAVEL	MTR300052	08/31/97	CANYON CREEK
EMPIRE SAND AND GRAVEL	MTR300059	08/31/97	5 MILE CREEK
EMPIRE SAND AND GRAVEL INC	MTR300060	08/31/97	IRRIGATION DITCH TO YELLOWSTONE
EXXON COMPANY U.S.A.	MTR300147	08/31/97	
EXXON COMPANY USA BELLE CRK	MTR300145	08/31/97	BLOW OUT CREEK
EXXON COMPANY USA BELLE CRK	MTR300146	08/31/97	BELLE CREEK
EXXON COMPANY USA BELLE CRK	MTR300150	08/31/97	WRIGHT CREEK
EXXON COMPANY, U.S.A.	MTR300148	08/31/97	RANCH CREEK
EXXON COMPANY, U.S.A.	MTR300149	08/31/97	BELLE CREEK
F H STOLTZE LAND & LUMBER CO	MTR000019	11/30/94	TRUMBELL CREEK
FARMERS UNION CENTRAL EXCHANGE	MTR000099	11/30/94	YELLOWSTONE RIVER
FARSTAD OIL INC	MTR000150	11/30/94	YELLOWSTONE RIVER
FISHER SAND & GRAVEL	MTR300182		
FISHER SAND & GRAVEL	MTR300201		
FISHER SAND & GRAVEL	MTR300212		
FISHER SAND & GRAVEL	MTR300215		

FISHER SAND & GRAVEL	MTR300218		
FISHER SAND & GRAVEL CO	MTR000278	11/30/94	UPPER SEVEN MILE CREEK
FISHER SAND & GRAVEL CO	MTR000312		
FISHER SAND AND GRAVEL	MTR300110	08/31/97	
FISHER SAND AND GRAVEL	MTR300111	08/31/97	YELLOWSTONE RIVER
FISHER SAND AND GRAVEL	MTR300195		
FLATHEAD MUNICIPAL AIRPORT	MTR000309		
FLATHEAD SALVAGE & STORAGE	MTR000230	11/30/94	FLATHEAD LAKE
FLYING J PETROLEUM	MTR000187	11/30/94	SPRING COULEE
FOSSUM READY MIX	MTR000038	11/30/94	MILK RIVER
GALLATIN COUNTY LANDFILL	MTR000358		
GEBHARDT POST & POLE	MTR000318		
GEM RIVER CORP.	MTR300205		
GEN PERMIT STORM WATER CONSTR.	MTR100000	08/31/97	
GEN PERMIT-STORMWTR INDUSTRIAL	MTR000000		STATE WATERS
GENERAL MILLS, INC	MTR000091	11/30/94	MISSOURI RIVER 400 YARDS
GOLDEN SUNLIGHT MINES INC.	MTR300199		
GRANITE CONCRETE CO., INC	MTR000026	11/30/94	GRANITE CREEK
GRANITE CONCRETE COMPANY INC			LIBBY CREEK
GREAT FALLS INT AIRPORT AUTH	MTR000015	11/30/94	MISSOURI RIVER
GREAT FALLS TRANSIT DISTRICT	MTR000063	11/30/94	MISSOURI RIVER
GREAT FALLS TRIBUNE	MTR000204	11/30/94	MISSOURI RIVER
GREEN'S SALES, INC	MTR000126	11/30/94	MILK RIVER
H. A. BOLINGER	MTR300161	08/31/97	JACK CREEK
HANOVER GOLD CO	MTR300116	08/31/97	ALDER CREEK
HANSER'S AUTOMOTIVE & WRECKER	MTR000168	11/30/94	IRRIGATION DITCH NE OF PROPERTY
HAVRE READY MIX	MTR000385		
HELENA REGIONAL AIRPORT	MTR000271		
HELENA SAND & GRAVEL	MTR300084	08/31/97	MCCLELLAN CREEK
HELENA SAND & GRAVEL	MTR300151	08/31/97	PRICKLEY PEAR CREEK
HOLLY SUGAR CORPORATION	MTR000084	11/30/94	YELLOWSTONE RIVER
HOLNAM INC	MTR300197		
HOLNAM INC-TRIDENT PLANT	MTR000106	11/30/94	MISSOURI RIVER
IDAHO POLE COMPANY	MTR000020	11/30/94	ROCKY & MILL CREEKS
INGRAHAM WRECKING	MTR000267	11/30/94	COALPIT CREEK
JOHN CARBERRY	MTR300143	08/31/97	
JOHN EUSTLER	MTR300158	08/31/97	UNDERGROUND SPRINGS
KALISPELL WRECKING	MTR000367		
KARST STAGE	MTR000401		
KARST STAGE	MTR000402		
KENDALL WARD	MTR000010	11/30/94	LIBBY CREEK
KENNETH A LUTZ	MTR300144	08/31/97	WEST FORK OF ROCK CREEK
KENYON-NOBLE READY MIX CO	MTR000095	11/30/94	BOZEMAN CREEK
KENYON-NOBLE READY MIX CO	MTR000096	11/30/94	GALLATIN RIVER
KERLEY AG, INC	MTR000093		YELLOWSTONE RIVER
KLAMERT RAILROAD SALVAGE	MTR000139	11/30/94	CLARKS FORK RIVER
KLEINSCHMIDT MINES	MTR300216		
KOCH MATERIALS	MTR000179	11/30/94	YELLOWSTONE RIVER
KOCH SERVICE INC	MTR000259	11/30/94	DRAINAGE DITCH AND UNKNOWN POND
KOCH SERVICE, INC	MTR000079	11/30/94	BIG MUDDY CREEK 1/2 MILE FROM PROP
LAWRENCE EVERS	MTR000140	11/30/94	BITTERROOT RIVER
LEWIS & CLARK COUNTY LANDFILL	MTROOO363		
LIQUID AIR CORP	MTR000006	11/30/94	PRICKLY PEAR CREEK
LOGAN INTERNATIONAL AIRPORT	MTR000304		
LOUISANA PACIFIC	MTR000296		
LS READY MIX CONCRETE	MTR000158	11/30/94	BEAVERHEAD RIVER
LUZENAC AMERICA INC	MTR300094	08/31/97	MIDDLE FORK OF STONE CREEK
LUZENAC AMERICA-ANTLER MINE	MTR300093	08/31/97	CREEKLYN DITCH DRAINS TO JEFFERSON
LYMAN CLAYTON AIRPORT	MTR000193		MISSOURI RIVER 1.5 MILES
M & M SALVAGE	MTR000266	11/30/94	HOLDING POND TO NORTH
M & V MINING	MTR300162		
M & W MILLING & REFINING,		08/31/97	
MARIETTA MINES	MTR300140	08/31/97	INDIAN CREEK
MEADOW GOLD DAIRIES INC	MTR000315		
MEADOW GOLD DAIRIES INC	MTR000345		
MEDICINE BOW MOTORS INC	MTR000231	11/30/94	BITTERROOT RIVER
MERGENTHALER TRANSFER &	MTR000376		
MERIDIAN AGGREGATES CO	MTR300169		
MIDWEST MOTOR EXPRESS, INC	MTR000121	11/30/94	YELLOWSTONE RIVER-SOUTH 2.5 MILES
MIKE MCGINLEY TRUCKING,		11/30/94	
MISSOULA AUTO SALVAGE	MTR000350		
MISSOULA FIRE & TECH CENTER	MTR000382		
MISSOULA INTERNATINAL AIRPORT	MTR000295		
MOLERWAY FREIGHT LINES	MTR000165	11/30/94	YELLOWSTONE RIVER
MONTANA AVIATION RESEARCH CO	MTR000130	11/30/94	E FORK CHERRY CREEK
MONTANA RAIL LINK	MTR000361		
MONTANA RAIL LINK	MTR000386		
MONTANA RECYCLENOW	MTR000366		
MONTANA RECYCLENOW	MTR000369		
MONTANA RECYCLENOW	MTR000370		
MONTANA RECYCLENOW	MTR000371		
MONTANA RECYCLERS	MTR000365		
MONTANA WESTERN RAILWAY CO	MTR000298		
MONTANA-DAKOTA UTILITIES CO	MTR000108	11/30/94	
MOORE OIL INC	MTR000310		
MSE INC	MTR000017	11/30/94	SAND CREEK
MT DEPT OF MILITARY AFFAIRS	MTR000082	11/30/94	MISSOURI RIVER
NAZAR & SON TOWING INC	MTR000263		
NEW BUTTE MINING, INC	MTR300004		MSLA,BEEFSTRAIGHT & ORO FINO GULCH
NORTH PARK TRANSPORTATION CO	MTR00076	11/30/94	
NORTHERN MT JOINT REFUSE	MTR000368		
NORTHWEST PROTECTIVE COATING	MTR000054	11/30/94	SEVEN MILE CREEK
NW TRANSPORT SERVICE, INC	MTR000034	11/30/94	PRICKLY PEAR CREEK

OWENS & BRAY, INC	MTR000152	11/30/94	SPRING CREEK 5/10THS
OWENS AND HURST LUMBER CO. INC	MTR000057	11/30/94	INDIAN CREEK
PACIFIC HIDE & FUR	MTR000287		
PACIFIC RECYCLING	MTR000289	11/30/99	
PACIFIC RECYCLING	MTR000294		
PACIFIC STEEL & RECYCLING	MTR000286		
PACIFIC STEEL & RECYCLING	MTR000288		
PACIFIC STEEL & RECYCLING	MTR000290		
PACIFIC STEEL & RECYCLING	MTR000291		
PACIFIC STEEL & RECYCLING	MTR000292		
PACIFIC STEEL & RECYCLING	MTR000357		
PELTIER OIL COMPANY	MTR000395		
PHELPS DODGE MINING CO	MTR300086		
PLUM CREEK-COLUMBIA FALLS	MTR000086	11/30/94	
PLUM CREEK-KSANKA	MTR000088	11/30/94	DEEP CREEK
PM AG PRODUCTS INC	MTR000316		
PORTABLE INC	MTR300089	08/31/97	GALLATIN RIVER
PORTABLE INC	MTR300192		
PRINCE, INC	MTR000110	11/30/94	YELLOWSTONE RIVER
QUINTEN HOFF	MTR000257		
R-Y TIMBER	MTR000283		
RAN-JO INC DBA	MTR000141	11/30/94	SANDSTONE CREEK
RARUS RAILWAY CO	MTR000322		
REAL TRUCKING, INC	MTR000160	11/30/94	
RED MOUNTAIN LEAD TUNNEL	MTR300138	08/31/97	TEN MILE CREEK
RHODIUM 2001 INC	MTR000344		
RIVERSIDE CONTRACTING	MTR300219		
RIVERSIDE CONTRACTING INC	MTR300189		
ROCKY MOUNTAIN AUTO SALVAGE	MTR000279		
ROCKY RIDGE WRECKING	MTR000217	11/30/94	BIG MUDDY RIVER
ROSEBUD POWER PLANT	MTR000058	11/30/94	EAST FORK ARMELLS CREEK
RUAN LEASING	MTR000372		
RYDER STUDENT TRANSPORT SERVICE	MTR000383		
SAFETY KLEEN CORPORATION	MTR000074	11/30/94	YELLOWSTONE RIVER--1.5 MILES NW
SELWAY CORPORATION	MTR000069	11/30/94	FLOOD IRRIGATION DITCH - SUMMER ONLY
SEVEN UP PETE JOINT VENTURE	MTR300085		
SIDNEY AUTO WRECKING INC	MTR000223	11/30/94	YELLOWSTONE RIVER
SILVER BOW SANITARY LANDFILL	MTR000194	11/30/94	TRIBUT. TO SLVR BOW CRK & ORO FINO G
SPRING CREEK COAL CO.	MTR300198		
STACEY TRANSFER & STORAGE	MTR000148	11/30/94	MISSOURI RIVER
STEVE NELSON TRUCKING	MTR000381		
STEVE RYAN - CR6 PLACER CLAIM	MTR300181		
STEVENSVILLE POST AND POLE	MTR000107	11/30/94	SLOUGH TO BITTERROOT RIVER
STILLWATER MINING COMPANY	MTR300017	08/31/97	STILLWATER RIVER
T & B MINING INC	MTR300137	08/31/97	WILLOW CREEK
T & R TRUCKING INC	MTR000007	11/30/94	MILK RIVER APPROX. 3 MILES
THOMAS TRUCKING CO	MTR000145	11/30/94	DITCH"
TOOLE COUNTY ROAD DEPT	MTR300204		
TRANSYSTEMS SERVICES	MTR000147	11/30/94	MISSOURI RIVER
TRI-CITY WRECKING	MTR000235		
TRIANGLE TELEPHONE_COOP ASSOC	MTR000066		BEAVER CREEK/MILK RIVER
TRICON TIMBER, INC	MTR000042	11/30/94	CLARK FORK RIVER
TRUCK PARTS UNLIMITED	MTR000264		
UNITED MATERIALS OF GREAT FALL	MTR000201	11/30/94	NATURAL SPRING
UNITED MATERIALS OF GREAT FALL	MTR000202	11/30/94	MISSOURI RIVER
UNITED MATRIALS OF GREAT FALL	MTR300176		
UNITED MATRIALS OF GREAT FALL	MTR300211		
UNITED PARCEL SERVICE	MTR000328		
UNITED PARCEL SERVICE	MTR000329		
UNITED PARCEL SERVICE	MTR000332		
UNITED MATERIALS OF GREAT FALL	MTR000203	11/30/94	SAND COULEE CREEK
UPS GLENDIVE CENTER	MTR000339		
UPS HAVRE CENTER	MTR000336		
UPS HELENA CENTER	MTR000334		
UPS MALTA CENTER	MTR000341		
UPS MILES CITY CENTER	MTR000338		
US POSTAL SERVICE	MTR000398		
USPS BILLINGS	MTR000391		
USPS BUTTE	MTR000389		
USPS HELENA	MTR000388		
USPS MISSOULA	MTR000390		
VALLEY WEST GRAVEL PIT	MTR300217		
W R DRINKWALTER & SONS TRUCKIN	MTR000073	11/30/94	YELLOWSTONE RIVER--4 MILES
WASHINGTON CONSTRUCTION CO	MTR300022		
WASHINGTON GULCH MINING PROJ	MTR300123	08/31/97	WASHINGTON CREEK
WASTE MGMT OF GREAT FALLS	MTR000100	11/30/94	BLACKFEET GULCH
WASTE MGMT OF MONTANA, INC.	MTR000080		MISSOURI RIVER
WAYNE CLUTIS MINING	MTR300134	08/31/97	ELK CREEK
WEATHERFORD TRUCKING, INC	MTR000123		
WESTERN BEE SUPPLIES, INC	MTR000071	11/30/94	FLATHEAD RIVER APPROX 1 MILE
WESTERN MATERIALS	MTR300075	08/31/97	
WESTERN MATERIALS INC	MTR300074	08/31/97	PATTEE CREEK
WESTERN STATES INDUSTRIES	MTR000313		
WESTERN SUGAR COMPANY	MTR000103	11/30/94	YELLOWSTONE RIVER
WISHER'S AUTO RECYCLING	MTR000251	11/30/94	ASHLEY CREEK
WOOD'S POWR-GRIP CO., INC	MTR000024	11/30/94	YELLOWSTONE RIVER

APPENDIX B

List of Water Quality Limited Waterbodies

in

Montana

INDEX OF WATER QUALITY LIMITED WATERBODIES

STREAMS:

.....

LAKES:

STREAMS

LAKES

APPENDIX C

RESPONSE TO PUBLIC COMMENTS RECEIVED

ON

THE DRAFT 1996 303(D) LIST

APPENDIX C

RESPONSE TO PUBLIC COMMENTS RECEIVED ON THE DRAFT 1996 303(D) LIST

INTRODUCTION

This appendix contains the Department of Environmental Quality's (DEQ) response to public comments received on Montana=s draft 1996 ∋303(d) list of threatened and impaired waters in need of Total Maximum Daily Load (TMDL) development. DEQ mailed copies of the draft list to 30 individuals and notices of availability of the draft list to an additional 40 individuals in early November 1996. The mailing list included government agencies, conservation groups and representatives of business and industry. A Public Notice was issued November 13, 1996 requesting public comment on the draft list and DEQ=s priority ranking of waters in need of TMDLs. A 30-day public comment period was subsequently extended to December 20, 1996 following several written requests for an extension.

DEQ conducted public meetings at three locations in the state to discuss the draft list. The purpose of the meetings was to explain development of the list, discuss implications of listing, and solicit public comments on the process as well as the 1996 draft list. These meetings were as follows:

December 2, 1996	December 5, 1996	December 9, 1996
7:00 p.m.	7:00 p.m.	7:00 p.m.
Room 111, Metcalf Bldg.	Village Red Lion	Lewis Room, Petro Hall
Helena, MT	Missoula, MT	Billings, MT

DEQ received 24 letters of comment on the 1996 draft ∋303(d) list and additional oral comments during the public meetings. DEQ=s response to summarized (paraphrased) public comments are included in the following pages.

As a result of public input, DEQ subsequently removed 28 waterbodies from the draft list where natural causes were the only source of impairment (Table 1). Requests to make other deletions from, or new additions to, the draft list were not addressed at this time due to pending legislation before the 1997 Montana Legislature. This legislation may result in a more formalized TMDL process, as well as more explicit criteria for listing and de-listing suspected threatened and impaired waters. A total of 29 waterbodies were suggested by the public and other interest groups as being inappropriately listed or omitted from the draft 1996 ∋303(d) list (List 1). These waters will be prioritized for reassessment during the 1997 field season and this new information will be reflected in DEQ=s draft 1998 ∋303(d) list scheduled for completion in April 1998.

TABLE 1

Waterbodies Removed From the 1996 э303(d) List Due to Natural Impairment

WATERBODY NUMBER	USGS HYDROLOGIC NUMBER	ASSESS-MENT DATE yr/mo	WATERBODY NAME (STREAMS)
MT76I002-3	17010207	9103	OLE CREEK
MT76F002-1	17010203	9104	LANDERS FORK BLACKFOOT RIVER
MT76F002-36	17010203	9104	CLEARWATER RIVER
MT41I006-18	10030101	9101	NORTH FORK WARM SPRINGS CREEK
MT41I006-19	10030101	9101	JACKSON CREEK
MT41I006-20	10030101	9101	MC CLELLAN CREEK
MT40E002-1	10040104	8910	TIMBER CREEK
MT40E002-2	10040104	8910	NELSON CREEK
MT40S002-2	10060001	9001	LITTLE PORCUPINE CREEK
MT42C002-1	10090102	8911	COOK CREEK
MT42C002-3	10090102	8911	BEAVER CREEK
MT42C002-4	10090102	8911	FOSTER CREEK
MT42C002-5	10090102	8911	LITTLE PUMPKIN CREEK
MT42KJ002-5	10100001	8912	STARVED-TO-DEATH CREEK
MT42KJ002-6	10100001	8912	RESERVATION CREEK
MT42KJ002-7	10100001	8912	SMITH CREEK
MT42KJ003-1	10100002	9208	GREAT (BIG) PORCUPINE CREEK
MT43E001-2	10070008	8911	EAST FORK PRYOR CREEK
MT43E001-3	10070008	8911	HAY CREEK
MT43E001-4	10070008	8911	EAST FORK CREEK
MT43P004-3	10080015	8911	WOODY CREEK
MT42K002-5	10100001	8910	SAND CREEK
MT42L001-5	10100004	9208	GLENDIVE CREEK
MT41F005-1	10020007	9403	HEBGEN LAKE
MT41F005-2	10020007	9403	QUAKE LAKE

LIST 1

Waterbodies in Need of Assessment or Reassessment in 1997

Stillwater River
Ole Creek
Elk Creek
Squeezer Creek
Lion Creek
Goat Creek
Flathead Lake
Swan Lake
Libby Creek
Cripple Horse Creek
Bristow Creek
Lost Creek
Cold Creek
Woodward Creek
Soup Creek
Kraft Creek
Cedar Creek
Glacier Creek
Buck Creek
Cooney Creek
Dog Creek
East Boulder River
Rock Creek
McDonald Creek
Collar Creek
Big Spring Creek
Casino Creek
Cottonwood Creek
Divide Creek

Public Comments and Responses

! Several comments were received expressing concern about the credibility of the data and the scientific basis for making water use support determinations reflected in the draft 1996 ∋303(d) list.

The 1996 ∋303(d) list represents a review and assimilation of numerous quantitative scientific data, qualitative waterbody assessments, and best professional judgement compiled from a wide variety of sources since the mid-1970's. Included in this information base are data compiled by the State of Montana for several federal Clean Water Act programs, including ∋208 basin plans, ∋304(l) listings of impaired waters, ∋319 nonpoint source assessments, and ∋305(b) stream assessments. Montana DEQ follows federal guidelines and approved scientific protocols in developing the list. If available data indicate that a waterbody is not meeting water quality standards and the data meet listing guidelines, DEQ must assume that the waterbody is water quality limited.

Individual waterbody assessment information must be reviewed to address public concerns regarding the rationale for listing specific waters. Supporting data, quality assurance information, reference materials, and listing rationale are available for public review at DEQ=s offices in Helena.

! Several respondents suggested that a new ∋303(d) list should be developed on the basis of consistent, up-to-date, accurate, and verifiable data rather than publishing a potentially flawed list based on a mix of information.

The present ∋303(d) list has been developed using the best available information as required by EPA guidance. Given the large number of stream miles and lake acres in Montana and a shortfall of monitoring resources, DEQ makes a concerted effort to utilize all available water quality information from a variety of sources. These data are screened and must meet certain quality requirements and be considered as representative of the source. At present, DEQ does not have the option of gathering all new, consistent water quality information for suspected threatened or impaired waters statewide. Despite its resourcefulness, DEQ lacks any water quality information for a significant percentage of waters in the state. A monitoring program capable of addressing statewide water quality status and trends is a long term goal of DEQ. Changes to Montana=s TMDL process will be considered during the 1997 legislature. The appropriation of state revenues to support the program could help address DEQ=s current monitoring limitations.

! One commentor was confused by the title of the list and its relationship to the ∋305(b) water quality assessment report.

The title, <u>List of Waterbodies in Need of Total Maximum Daily Load Development</u>, is correct. Several lists of impaired waterbodies have been developed by the State of Montana over the past dozen or more years to address various Clean Water Act requirements. These have included the ∋304(l) Along≅, Ashort≅ and Amini≅ lists and the ∋319 nonpoint source assessment. These lists have been referenced in the biennial Montana Water Quality Assessment (or ∋305(b)) Report), which is intended to provide an overview of statewide water quality conditions and trends. Development of the ∋303(d) list of threatened and impaired waters is a more recent requirement of the Clean Water Act and is based in part on information compiled for the ∋305(b) report. The list of threatened and impaired waters is used as the focus for water quality management plans known as TMDLs. The first ∋303(d) list was compiled in 1992. The list and the biennial Montana water quality assessment report are logical complements to one another.

! A number of commentors questioned the rationale for listing waterbodies whose only suspected sources of impairment were natural in origin.

Waterbodies that are impaired only as a result of natural sources and causes are candidates for water quality standards reclassification or the development of site specific water quality standards. A total of 28 such waterbodies have been identified on the 1996 ə303(d) list. These waterbodies were incorrectly assessed and have been removed from the final list and steps will be taken to modify their use classifications as resources within DEQ allow.

! Clarification was requested regarding the process for removing waterbodies from the ə303(d) list.

Waterbodies can be removed from the list if one of two criteria are met: 1) A TMDL is completed for the waterbody, or 2) it is determined that a waterbody was incorrectly assessed or that water quality has improved to the point that beneficial uses are no longer threatened or impaired. DEQ may make amendments to the list at any time by notifying EPA of the changes and providing adequate justification for those changes.

! Concern was expressed over DEQ=s decision to list waterbodies as threatened where new mining operations have been proposed.

DEQ has reasoned that development of major new mines in the absence of proper controls and consideration of cumulative effects could potentially affect beneficial uses. A conservative approach and a Athreatened≅ designation may be warranted even though all water uses are presently fully supported. The development of environmental impact statements, nondegradation reviews and the permitting process for proposed new facilities should be integral components of a TMDL. The TMDL for such threatened classes of waters will reflect the coordination of existing regulatory controls with any needed additional water quality-based safeguards so that beneficial uses are protected and cumulative effects are avoided.

! Some respondents offered to assist DEQ with the development of criteria and procedures for the TMDL process.

DEQ is taking steps to increase opportunities for public involvement in all phases of the TMDL process. Draft legislation to be introduced in the 1997 session of the legislature establishes requirements for public participation. DEQ welcomes assistance from individuals and interest groups in developing and improving the TMDL program.

! Concern was expressed about DEQ=s use of so-called Awindshield surveys≅ as a waterbody assessment tool.

The term Awindshield survey≅ presumably refers to a cursory appraisal of waterbody use support. DEQ professionals who conduct waterbody assessments attempt to access streams and lakes at as many public access points as possible. Whenever possible and practical, local landowners and conservation districts are contacted for additional information about the waterbody. Stream reaches located between access points are evaluated for stream bank condition and land use practices Athrough the windshield≅ to fill in the blanks and identify potential causes and sources of pollution. Water column and biological water quality samples are collected routinely at the mouths of streams and at several upstream locations. All of the information obtained is used to make use support decisions.

! One commentor did not like the organization of the draft 1996 ∋303(d) list.

The appearance and organization of the list has undergone changes with each new publication. Suggestions from users of previous lists have been incorporated into the present list to make it more functional. Unfortunately this will make each list appear different. The waterbody identification and watershed designations used in the past and present lists have not changed. Several suggested changes have been made in the final 1996 list which should make it more Auser friendly≅.

! One respondent suggested that DEQ should not target waters for TMDL development only where problems are relatively simple and conducive to quick solutions.

DEQ has not used ease of TMDL development as a targeting criteria. Impairment problems affecting many of the high and moderate priority waterbodies on the 1996 list are complex and will be difficult to address. One example is the need for a TMDL to restore water quality in Flathead Lake. Pollution sources and land uses in a several thousand square mile drainage area will need to be addressed.

! Questions were received about the enforceability of TMDL pollution allocations.

TMDL implementation and enforcement is not explicitly addressed in the federal regulations. However, DEQ remains committed to implementing all TMDLs it develops. DEQ is pursuing additional statutory authority through legislation to clarify its implementation and enforcement responsibilities.

! Comments were received recommending the use of biological indicators, and especially bull trout (*Salvelinus confluentis*), for water use support analysis and waterbody prioritization.

Bull trout and other biological indicator species will be used when appropriate as water quality goals or as indicators of aquatic life use support and will be considered in the prioritization of waterbodies for TMDL development. AState policies and priorities≅ are a proposed new criterion for prioritizing waters for TMDL development. The recovery of Montana=s dwindling bull trout populations are a high priority of the Montana Governor=s office.

! Concern was expressed about the use of a Athreatened≅ use support designation as a reason for ∋303(d) listing.

Threatened waterbodies are required by EPA rules and guidance to be included in the ∋303(d) list.

! Several individuals requested that specific waterbodies be removed from the list, added to the list or re-prioritized; one respondent supplied data supporting their request.

DEQ is in the process of modifying its TMDL program through the legislative process and subsequent rule development. We anticipate significant changes in the program in the coming year as a result of this legislation. Changes may include more explicit criteria for listing and de-listing suspected threatened and impaired waters, as well as a process for petitioning DEQ to list and de-list waters. Consequently, DEQ has decided not to modify the present list or the prioritization of the list, except for those waters where natural sources were suspected as the only causes of impairment (Table 1). As stated in the introduction to this appendix, DEQ will prioritize the 29 waterbodies listed in List 1 for reassessment during 1997. This new information will be considered during the preparation of the 1998 draft ∋303(d) list.

! Does the State of Montana have clear statutory authority under Montana=s Water Quality Act to develop, implement or enforce a TMDL for nonpoint sources of pollution?

DEQ=s authority to develop TMDLs for nonpoint sources of pollution is based on its general authority to collect information and to formulate plans for the prevention and control of pollution under Sections 75-5-212 and 75-5-213, MCA. DEQ also has authority to enforce compliance with water quality standards against any person in violation of those standards, including nonpoint sources of pollution, under Section 76-5-605, MCA. There is, however, no specific statutory authority that directs DEQ to develop, implement, and enforce total maximum daily loads for point and nonpoint sources of pollution. Absent this specific authority, DEQ is preparing legislation in order to obtain this authority and comply with ə303(d) of the federal Clean Water Act.

! Does EPA have clear statutory authority under the federal Clean Water Act (CWA) to require the State of Montana to develop and implement TMDL=s for nonpoint sources of pollution?

ə303(d) of the act requires states to establish TMDLs for all waters that have been identified as water quality limited. Although the CWA does not specifically require states to develop TMDLs for nonpoint sources, EPA=s rules implementing ə303(d) require the development of TMDLs for both point and nonpoint sources. Whether or not EPA has clear statutory authority under the CWA to adopt rules requiring TMDLs for nonpoint sources is a question for EPA to resolve. At this point, DEQ has little choice but to comply with EPA=s requirements in order to obtain EPA=s approval of any TMDL developed by the state. If EPA does not approve the state=s TMDLs, EPA is required to develop a TMDL for the state to incorporate into its discharge permits and continuing planning process.

! One respondent asked whether DEQ had been sued for failing to implement TMDLs according to the requirements of the CWA.

On December 2, 1996, a citizen=s group notified DEQ and EPA of its intent to file suit against those agencies for failure to comply with the requirement of ə303(d) of the CWA. However, the plaintiffs cannot file a complaint until 60 days from the time the agencies received notice of their intent to sue. At this time, no complaint has been filed.

! One writer suggested that Section 401 should be used to control federal permitting decisions.

Under ə401 of the CWA, DEQ certifies all point source discharges that are authorized under a federal license or permit in order to ensure compliance with the state=s water quality standards. The state does not certify nonpoint sources discharges authorized by a federal license because its authority to do so is not clear. Recent federal cases within the ninth circuit are split on the issue of whether or not ə401 of the CWA applies to both point and nonpoint source discharges. Until this issue is resolved by the Ninth Circuit Court of Appeals, DEQ will not assume it has the authority to require certification of nonpoint sources.

! Two commentors stated that ə401 permitting is a tool that has not been adequately implemented by DEQ and that the state should assert its authority under the Clean Water Act to control federal actions, permits and leases that add pollutants to water quality limited stream segments.

The meaning and extent of state ə401 certification authority are not clear at this time. Recent federal court decisions have held that forest service roads are not subject to ə401 certification and conversely that grazing permits on federal lands that cause impairment of water quality are subject to ə401 certification. Until this issue is resolved, the state apparently has no ə401 certification authority over nonpoint source activities that may cause water quality impairment.

! One group stated that DEQ must develop a schedule for TMDL development and implementation that will satisfy requirements of the Clean Water Act.

DEQ has developed a schedule in its proposed TMDL legislation that it feels will satisfy the Clean Water Act requirements.

! DEQ may want to consider adopting minimum instream flow requirements for water quality limited streams that are chronically dewatered. The 1995 legislature enacted cooperative approaches for maintaining instream flows. DEQ may want to consider those and other options to address instream flow problems.

Montana=s existing legal and institutional framework for water management does not adequately address the integral relationship between water use and water quality. The laws seek to maximize water use and enhance water quality rather than establishing an optimal balance between the two.

One section of the Montana Water Plan creates a management framework for minimizing conflicts between the two concerns. The plan authorizes DNRC to deny new water use permits where water quality will be adversely affected and requires DEQ to consider water quality impacts of water use proposals. However, the plan does not provide a mechanism for resolving existing problems.

The 1995 legislature passed two bills which authorize leasing of water rights for instream flow purposes. These bills provide a voluntary mechanism for addressing stream flow depletion problems in some situations where there are willing water rights holders and a sponsor to provide compensation. However, it is unlikely that such water leasing will ever be applied broadly enough to address more than a fraction of such problems statewide.

! The draft 1996 303(d) list includes discharge permits for Phelps Dodge Mining Company and the Seven-Up Pete Joint Venture. To the best of our knowledge, neither Phelps Dodge or SPJV has a discharge permit for their ongoing exploration activities. Please clarify the source of the discharge and the receiving waters for these permits in the final 303(d) list.

Phelps Dodge Mining Company and the Seven-Up Pete Joint Venture were issued storm water discharge permits in 1995. Receiving waters are Landers Fork, Blackfoot River and Sawmill Gulch for the former and Seven-Up Pete and Hogum creeks for the latter. These two permits were granted under a general storm water permit (MTR300000) developed in 1992.