



June 20th, 2022

Notice of Intent to List the Middle Segment of the Gallatin River as an Impaired Waterbody and for TMDL Prioritization - Request for Public Comment

On March 31, 2022, Montana Department of Environmental Quality (DEQ) received a petition under MCA § 75-5-702 and 33 U.S.C. § 1313(d)(1) to assess the middle segment of the Gallatin River (Yellowstone National Park to Spanish Creek) and determine if recurrent nuisance algal blooms require listing as an impaired water on Montana's 303(d) list. Based upon the Montana Department of Environmental Quality's assessment of sufficient credible data, DEQ has tentatively determined the middle segment of the Gallatin River should be listed as impaired for excessive algal growth, due to exceeding established thresholds for algae developed under ARM 17.30.637(1)(e).

DEQ is seeking comment on the draft assessment and listing decision and is hosting a public meeting on July 14, 2022 in Big Sky, Montana. The meeting will include a presentation and opportunity for questions. Attendees can access the meeting by telephone, in-person or online.

Written and electronic public comment will be accepted through August 22, 2022. Once the public comment closes, DEQ will review comments and make any necessary updates to the assessment. To view the assessment, meeting details and provide comment, visit:

<https://deq.mt.gov/water/resources#accordion1-collapse1>

Key petitioner requests and DEQ responses:

1. Upper Mo. Waterkeeper, Gallatin River Task Force, Montana Trout Unlimited, American Rivers, and Greater Yellowstone Coalition (Petitioners) asked DEQ to perform a beneficial use assessment of the middle segment Gallatin River and examine all best available data, including that submitted with the petition and data within the agency's control

Response: Montana Code Annotated (MCA) §75-5-702(3) provides the department a 60-day period to review data. After compiling and reviewing all readily available data along with the information that was provided within the petition, the Montana Department of Environmental Quality (DEQ) determined there is sufficient and credible data for a CWA 303(d) beneficial use assessment.

Specifically, sufficient data existed to follow the nutrient assessment methods for determining impacts to recreation and aquatic life. DEQ notified Petitioners of this determination on 5/31/2022.

2. Evidence of Widespread and Recurrent Nuisance Algal Blooms within the Middle Segment Gallatin River During Calendar Years 2018 and 2020 Constitute Overwhelming Evidence of Impairment for Primary Contact Recreation and/or Aquatic Life and Fisheries Beneficial Uses. Summer Seasons 2019

and 2021 Algal Blooms Are Also Probative of Continued Nutrient Pollution Challenges in the Middle Segment Gallatin River.

Response: In DEQ's beneficial use assessment program, overwhelming evidence of impairment from nutrient or eutrophication related listings for Montana's wadable streams constitutes a specific decision pathway toward an impairment listing. Overwhelming evidence of impairment by nutrients is identified in DEQ's assessment methods as bank-to-bank algae growth or fish kills associated with high algal presence and low dissolved oxygen conditions. Therefore, DEQ disagrees that either of these conditions are present on this segment of the Gallatin River. An overwhelming evidence approach to listing the Gallatin River is not triggered. Therefore, according to our methods, a weight of evidence approach is used, which includes multiple types of data for analysis.

3. Determine that the Gallatin River has experienced nuisance level, severe algal blooms that negatively affect beneficial uses.

Response: DEQ's draft assessment has determined that severe effects of eutrophication and algae presence affecting the uses are not present (see response to #1). According to a weight of evidence data analysis set forth in DEQ assessment methods, excessive algal growth occurs at levels that are beginning to affect aquatic life and recreation. This includes seasonal algal growth covering large portions of the streambed during multiple years.

4. Determine that the middle segment Gallatin River is failing to fully attain its recreational and/or aquatic life beneficial uses

Response: DEQ's draft assessment determined that excessive algae growth is diminishing the recreational and aquatic life uses (shifting the types of aquatic insect hatches) on this segment of the Gallatin River. Therefore, these uses are not fully attained. The Gallatin River remains a robust trout fishery.

5. List the middle segment Gallatin River as impaired by nutrient pollutants on its 303(d) List

Response: Nutrients were compared to DEQ -12A standards according to DEQ's assessment methods applicable to this segment. Generally, nutrient conditions were low during the applicable growing season and passed assessment method statistical tests based upon DEQ-12A standards. Direct measures of benthic algae, photos of algae growth, and aquatic insect community analysis all indicate that excessive algae growth is affecting aquatic life and recreational uses. DEQ proposes to list this segment for "excessive algal growth" as a pollutant. DEQ proposes to addend the 2020 Integrated Report, which contains the 303(d) list, with this impairment listing.

6. Prioritize the development of necessary Total Maximum Daily Loads (TMDLs) for the middle segment Gallatin River.

Response: Pollutant listings require DEQ to provide a TMDL development prioritization category. Future steps will include determining a course of action to control algae growth. This may include determining thresholds for controllable pollutants as well as any local factors that affect algae growth. DEQ will prioritize watershed planning efforts that will include applicable TMDLs as needed. DEQ proposes

identifying this impairment listing as a medium priority for watershed planning efforts. This means that the Department would aim to complete any necessary TMDLs associated with controlling algae within 2-6 years after initial listing. DEQ must coordinate TMDL prioritization with the Statewide TMDL advisory group and feedback from this advisory council may alter TMDL prioritization over time.