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DEC 27 2006

ENVIRONMENTAL PROTECTION AGENCY
JAN 08 2007
MONTANA OFFICE

Ref: 8EPR-EP

Richard Opper, Director
Montana Department of Environmental Quality
P.O. Box 200901
Helena, Montana 59620-0901

Re: Clean Water Act Section 303(d) Total Maximum Daily Load (TMDL) Waterbody List

Dear Mr. Opper:

Thank you for your submittal of Montana's year 2006 list of water-quality limited segments under Section 303(d) of the Clean Water Act dated December 8, 2006. EPA has conducted a complete review of this waterbody list and its supporting documentation and information. Based on this review, EPA has determined that Montana's 2006 list of water quality limited segments (WQLSs) still requiring TMDLs meets the requirements of Section 303(d) of the Clean Water Act ("CWA" or "the Act") and EPA's implementing regulations. Therefore, EPA hereby APPROVES Montana's Section 303(d) list. Please see Attachment #1 for a description of the statutory and regulatory requirements and a summary of EPA's review of Montana's compliance with each requirement.

The public participation process sponsored by the Montana Department of Environmental Quality ("DEQ") relating to this list included direct mailings to over 600 stakeholders soliciting comments, legal notices, news releases, and Internet announcements. A 60-day comment period was held from September 9th to November 7, 2006. The materials that were made available to the public included a detailed database of information on the waters and pollutants included on the list as well as narrative descriptions of the process, assessment results and GIS map files. A table of "delisted" waters, developed collaboratively by EPA and DEQ staff, summarizes the segment/pollutant combinations removed from the 303(d) list between 2004 and 2006. This table is included as Attachment #2.

We commend the state for its thorough public participation process. We acknowledge the State's response to EPA's comments on the draft Integrated Report. Although our approval of the Section 303(d) List is not contingent upon addressing our previous comments on the draft Integrated Report, we feel the quality of the document would be improved by revising the document to reflect these comments. We encourage you to consider these comments when you begin to develop the 2008 Integrated Report and have included our original comments as an attachment (Attachment #3).

Consistent with the terms of a consent decree in the lawsuit of Friends of the Wild Swan, *et. al.*, v. U.S. Environmental Protection Agency, *et al.*, Civil Action No. CV99-87-M-LBE, United States District Court for the District of Montana, Missoula Division, our Agency has consulted with the U.S. Fish and Wildlife Service (FWS). Our biological evaluation that addressed our approval was submitted to the Service in accordance with Section 7 of the Endangered Species Act. In our evaluation,

we assessed the effects of our approval on the threatened, endangered, proposed, and candidate species throughout the State. Our conclusion was that our approval of the State's list would not likely have an adverse effect on the species of concern. Any effect of the list approval was seen as either insignificant or beneficial to the species. Therefore, EPA has decided to approve the State's 2006 303(d) list contingent upon the outcome of consultation with the FWS.

Under current regulations, the next Section 303(d) list is required to be submitted on April 1, 2008. We invite states to recommend changes to the list during the interim period as they deem necessary. All additions, deletions and modifications to the list will require EPA approval.

Again, thank you for your hard work in developing the 2006 Section 303(d) TMDL waterbody list. If you have questions, feel free to give me, or Tina Laidlaw (406-457-5016) of my staff, a call.

Sincerely,

Max H. Dodson
Assistant Regional Administrator
Office of Ecosystems Protection and
Remediation

Enclosure

Cc: Claudia Massman, MTDEQ
Art Compton, MTDEQ
George Mathieus, MTDEQ
Michael Pipp, MTDEQ
Julie DalSoglio, USEPA 8MO
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Tina Laidlaw, USEPA 8MO
Suzanne Bohan, USEPA 8RC
Brent Esmoil, USFWS
Jack Tuholske, Attorney
Dan Dertke, DOJ

ATTACHMENT #1

Review of Montana's 2006 Section 303(d) Waterbody List

Attachment to letter from Max H. Dodson, Assistant Regional Administrator, Office of Ecosystems Protection and Remediation, US EPA, Region VIII to Richard Opper, Director Montana Department of Environmental Quality

Date of Transmittal Letter from State: December 8, 2006
Date of Receipt by EPA: December 8, 2006

This attachment is organized in the following manner:

■ ■ ■

I. Introduction

The purpose of this review document is to describe the rationale for EPA's approval of Montana's year 2006 Section 303(d) waterbody list. The following sections identify those key elements to be included in the list submittal based on the Clean Water Act ("Act" or "CWA") and EPA regulations. (See 40 CFR 130.7). EPA reviewed the methodology used by the State in developing the §303(d) list and the State's description of the data and information it considered. EPA's review of Montana's §303(d) list is based on EPA's analysis of whether the State reasonably considered existing and readily available water quality-related data and information and reasonably identified waters required to be listed.

II. Statutory and Regulatory Background

A. Identification of Water Quality Limited Segments (WQLSs) for Inclusion on Section 303(d) List

Section 303(d)(1) of the Act directs each state to identify those waters within its jurisdiction for which effluent limitations required by CWA Sections 301(b)(1)(A) and (B) are not stringent enough to implement any applicable water quality standard, and to establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters. These waters are known as water quality-limited segments ("WQLSs"). The Section 303(d) listing requirement applies to waters threatened or impaired by point and/or nonpoint sources, pursuant to EPA's long-standing interpretation of Section 303(d).

Section 303(d) lists are informally referred to as lists of impaired and threatened waters or as lists of waters that do not meet water quality standards. EPA's TMDL regulations provide that states do not need to list waters (even though they may be impaired) where the following controls are adequate to implement applicable standards: (1) technology-based effluent limitations required by the Sections 301((b), 306, 307, or other sections of the Act, (2) more stringent effluent limitations required by state or local authority, and (3) other pollution control requirements required by state, local, or federal authority. (See 40 CFR Section 130.7(b)(1)).

B. Prioritization of Waters for TMDL Development.

Section 303(d)(1)(A) of the CWA and 40 CFR Section 130.7(b)(4) require that each state shall establish a priority ranking for the waters it identifies under Section 303(d), "taking into account the severity of the pollution and the uses to be made of such waters." In addition, 40 CFR Section 130.7(b)(4) requires that state lists "identify the pollutants causing or expected to cause violations of the applicable water quality standards" and "specifically include the identification of waters targeted for TMDL development in the next two years." EPA's review of Montana's prioritization is discussed in more detail in Section III.D.

C. Consideration of Existing and Readily Available Data and Information.

In developing Section 303(d) lists, each state is required to assemble and evaluate all existing and readily available water quality-related data and information, including, at a minimum, existing and readily available data and information about the following categories of waters: (1) waters identified by the state in its most recent CWA Section 305(b) report as "partially meeting" or "not meeting" designated uses or "threatened," (2) waters for which dilution calculations or predictive modeling indicate applicable standards will not be attained; (3) waters for which water quality problems have been reported by governmental agencies, members of the public, or academic institutions; and (4) waters identified as impaired or threatened in any Section 319 nonpoint assessment submitted to EPA. (See 40 CFR Section 130.7(b)(5)). In addition to these minimum categories, states should consider any other relevant data and information that are existing and readily available. EPA's 1991 Guidance for Water Quality-Based Decisions describes categories of water quality-related data and information that may be existing and readily available. See Guidance for Water Quality-Based Decisions: The TMDL Process, EPA Office of Water, 1991, Appendix C ("EPA's 1991 Guidance"). Please see section III.B for further discussion of how the state used existing and readily available data and information in compiling its list.

Although states are required to evaluate all existing and readily available water quality-related

data and information in compiling their Section 303(d) lists, they may decide to rely or not rely on particular data or information in determining whether to list specific waters. Each state must provide documentation to EPA to support the state's determination to list or not to list its waters. This documentation must be submitted to EPA together with the list and must include a description of the listing methodology, a description of the data and information used to develop the list, a rationale for any decision to not use any existing and readily available data and information, and any other reasonable information requested by EPA.

D. Applicable Water Quality Standards.

For purposes of identifying waters for the Section 303(d) list, the terms "water quality standard applicable to such waters" and "applicable water quality standards" refer to those water quality standards established under Section 303 of the Act. On April 27, 2000, EPA promulgated a rule under which the "applicable standard" for Clean Water Act purposes depends on when the relevant state or tribe promulgated that standard. Standards that states or tribes have promulgated before May 30, 2000 are effective upon promulgation by the states or tribes. Standards that states or tribes promulgate on or after May 30, 2000 become effective only upon EPA approval. (See 65 FR 24641).

III. Analysis of Montana's Submission

A. Background

EPA has reviewed the State's year 2006 submission and has concluded that the State developed its Section 303(d) list in compliance with Section 303(d) of the Act and 40 CFR Part 130.7. EPA's review is based on its analysis of whether the State reasonably considered existing and readily available water quality-related data and information and reasonably identified waters required to be listed.

Montana's 2006 Section 303(d) list was submitted to EPA as Appendix H, Section 3 of the document entitled "*2006 Integrated 303(d)/ 305(b) Water Quality Report for Montana*" (December 8, 2006). The methodology used by the state to determine which waters are to be included on the Section 303(d) list and the criteria used to prioritize each water is described in the State's 2006 Integrated Report and in the document, "*Standard Operating Procedure Water Quality Assessment Process and Methods*" (MT DEQ , 2006.)[1] Additional supporting information is included in electronic data files of data, maps, photographs, references to relevant documents, and references to electronic information. Further, the State maintains an individual record of assessment for each waterbody for which it has performed an assessment. These records include an identification of the data sources used in the assessment, the factors considered in the impairment decision, and a description of how those factors were used to reach the assessment determination. EPA reviewed a sample set of this supplemental information and provided comments to MTDEQ pertaining to this review.

The Montana year 2006 list submittal includes the following elements:

- a narrative describing the progress made over the last two years toward more comprehensive monitoring and assessment in Montana;
- a discussion on the changes made to the state's water quality standards;

[1] The document entitled "*Standard Operating Procedure Water Quality Assessment Process and Methods*" is found at http://deq.mt.gov/wqinfo/QAProgram/SOP%20WQPBWQM-001.pdf.

- a summary of the status of designated use support for the entire state;
- a description of the status of ground water assessments in the state;
- the year 2006 Section 303(d) waterbody list including:
    - waters identified as being on the 2006 Section 303(d) list
    - a summary of comments received by the state on the Section 303(d) list as well as the state's responses to comments.

The waters in Section 3, Appendix H, are the waters targeted for TMDL development. The tables in Appendix H, Section 3 include the following information for each waterbody: the name of the major hydrologic basin for the waterbody, the 8 digit hydrologic unit code for the watershed in which the water is located, the location of the waterbody, the pollutant parameter(s) of concern, the data/information source, the beneficial use that is threatened or impaired, the water classification as found in the state water quality standards, and the year in which the waterbody was added to the Section 303(d) list.

EPA's approval action of Montana's year 2006 Section 303(d) list extends only to the waterbodies and corresponding pollutants mentioned above as well as the prioritization of waterbodies for TMDL development. EPA's approval does not extend to other elements in the State's submittal.

The 2006 Section 303(d) waters are found in Appendix H, Section 3 of the State's submittal. The State's list includes a total of 651 stream segments and 26 lakes. Montana's 2006 list is considered an update of the State's 2004 list which consisted of 412 waters. Between 2004 and 2006, fifty-two segments were "delisted", meaning they had changes to the impairment cause or use support designation. Attachment #2 presents the list of "delisted" segments. The 2006 Section 303(d) list includes 285 segments that were not included on the previous year 2004 list due to a lack of sufficient credible data or because the waterbody was found to be fully supporting its uses in 2004.

Montana properly listed waters with nonpoint sources causing or expected to cause impairment, consistent with Section 303(d) and EPA guidance. Section 303(d) lists are to include all water quality-limited segments (WQLSs) still needing TMDLs, regardless of whether the source of the impairment is a point and/or nonpoint source. EPA's long-standing interpretation is that Section 303(d) applies to waters impacted by point and/or nonpoint sources. This interpretation has been described in EPA guidance. (See EPA's April 1991 Guidance and the August 27, 1997 EPA guidance listed below) In addition, this interpretation of Section 303(d) is described in detail in a May 23, 1997, memorandum from Geoffrey Grubbs, Director of the Assessment and Watershed Protection Division, EPA Office of Water, to the FACA Workgroup on Section 303(d) Listing Criteria[2]. (See Memorandum from Geoffrey H. Grubbs, Director, Assessment and Watershed Protection Division, to FACA Workgroup on Section 303(d) listing Criteria, "Nonpoint Sources and Section 303(d) Listing Requirements", May 23, 1997) (See also memorandum from Robert Perciasepe, Assistant Administrator, Office of Water, to Regional Administrators and Regional Water Division Directors, "New Policies for Establishing and Implementing TMDLs," August 8, 1997).

[2] EPA convened a Federal Advisory Committee Act (FACA) Committee in November 1996. The report of this FACA committee is found in EPA document EPA 100-R-98-006 (July 1998).

B. Identification of Waters and Consideration of Existing and Readily Available Water Quality-Related Data and Information

EPA has reviewed Montana's description of the data and information it considered for identifying waters on the §303(d) list. EPA concludes that the State properly assembled and evaluated all existing and readily available data and information, including data and information relating to the categories of waters specified in 40 CFR 130.7(b)(5). The State's evaluation of data and information in each of these categories is described below.

MTDEQ lists the existing and readily available data considered for each waterbody assessment on the Reference and Data Worksheet page of the Assessment Record prepared by the Monitoring staff. Electronic files of these records can be accessed via the Montana Clean Water Act Information Center website which can be found at: http://nris.state.mt.us/wis/environet. Data are evaluated following MTDEQ's Sufficient and Credible Data Review Process and used to make the final impairment decisions (See *Standard Operating Procedure Water Quality Assessment Process and Methods* for more information on this process). This approach is consistent with EPA's guidance and provides adequate documentation of MTDEQ's consideration of existing and readily available information.

EPA regulations require that four categories of information and data, at a minimum, be considered by states when Section 303(d) lists are developed. (See 40 CFR Part 130.7(b)(5)). EPA reviewed Montana's description of the data and information it considered for identifying waters on the Section 303(d) list and concluded that the State properly assembled and evaluated all existing and readily available data and information, including data and information in the four minimum categories as described below:

- *Waters identified by the state in its most recent Section 305(b) report as "partially meeting" or "not meeting" designated uses or as "threatened"* (§130.7(b)(5)(i)).

  The most recent Section 305(b) report for Montana is its 2006 Integrated Report which was submitted as part of the State's Integrated Report. Montana uses a consistent approach to making impairment decisions for waterbody assessments in its Clean Water Act §303(d), 305(b), and 319 programs. There is consistency between programs since the same assessment methodology and results may be used by all three programs. (The only exception is where the State has not updated its assessment as a result of public comment on its Section 303(d) list and it has not updated its Section 305(b) or 319 reports to reflect that change). In this unified assessment, all waters reported as "partially meeting" or "not meeting" designated uses or as "threatened" are on the Section 303(d) list are reported in the Integrated Report and are included in the State's Section 319 assessment.

  EPA concludes that Montana properly considered the waters identified in its most recent §305(b) report as "partially supporting," "not supporting," and "fully supported but threatened" in development of its 2006 §303(d) waterbody list.

- *Waters for which dilution calculations or predictive models indicate nonattainment of applicable water quality standards* (Section 130.7(b)(5)(ii)).

  Section 303(d) lists include not only those waters that are known not to be attaining standards, but also those waters for which dilution calculations and/or predictive modeling demonstrate that standards may not be attained (even after the application of technology-based effluent limits).

In the course of issuing MPDES permits, MTDEQ routinely calculates whether technology-based effluent limitations required by CWA Sections 301(b)(1)(A) and 301(b)(1)(B) are stringent enough to implement applicable water quality standards in the receiving waters. These calculations are done by dilution calculations and/or predictive modeling.

Where MTDEQ's calculations show that technology-based effluent limitations would not be sufficient for this purpose, DEQ imposes water quality-based effluent limitations ("WQBELs") as appropriate. In many instances, these WQBELs are based on TMDLs developed by the State and subsequently submitted to and approved by EPA as TMDLs under Section 303(d)(1)(C) of the CWA. MTDEQ makes these calculations not only when permits are initially issued but also when they are renewed.

While most of the waters receiving MPDES discharges are among the waters included on the Section 303(d) list, the simple fact that a water is a receiving water for a MPDES permit does not place it on the Montana Section 303(d) list. Many of Montana's receiving waters which are assessed as being impaired are not impaired by causes related to the MPDES discharges. Any data or information associated with an MPDES discharge regarding the water quality status of the receiving water was considered in the assessment of that waterbody.

EPA concludes that Montana properly considered waters for which dilution calculations or predictive models indicate nonattainment of applicable water quality standards in development of its 2006 §303(d) waterbody list.

- *Waters for which water quality problems have been reported by local, state, or federal agencies; members of the public; or academic institutions* (Section 130.7(b)(5)(iii).)

The State widely solicited data and information while preparing the year 2006 Section 303(d) list. Data and information obtained as a result of this effort were evaluated and considered for the 2006 listing process.

EPA concludes that Montana properly considered waters for which water quality problems have been reported by local, state, or federal agencies; members of the public; or academic institutions in development of its 2006 Section 303(d) waterbody list.

- *Waters identified by the state as impaired or threatened in a nonpoint assessment submitted to EPA under Section 319 of the CWA or in any updates of the assessment* (Section 130.7(b)(5)(iv)).

Section 319 of the CWA required states to develop a nonpoint source assessment report as well as a nonpoint source management plan. Montana first completed its management plan by 1988 and its assessment of nonpoint sources by 1992. During the mid-1990's, Montana fully integrated its assessment under the Section 319, 305(b), and 303(d) programs. The assessments reported under each of these programs stem from the same assessment process to assure consistency from one program to the next.

The State completed its nonpoint source assessment as described in the report "Montana Nonpoint Source Management Plan: A Watershed Approach" (Montana Department of Environmental Quality, May 2001). This report discusses how the assessment, prioritization, scheduling, and development of NPS plans and TMDLs are fully integrated between the Section 319 and 303(d) programs. The State is currently updating its Nonpoint Source Plan. EPA

encourages MTDEQ to update the Nonpoint Source Pollution section of the Integrated Report for 2008 since the 2006 report uses information from 2000.

EPA concludes that Montana properly considered waters identified by the State as impaired or threatened in a nonpoint assessment submitted to EPA under Section 319 of the CWA and any updates of the assessment in development of its 2006 §303(d) waterbody list.

C. Montana's Assessment and Listing Methodology

The State used the same assessment and listing methodology for the year 2006 list as it did for its year 2004 list. The State developed its assessment methodology based largely on EPA guidance addressing State development of the Integrated Report, for the State to apply in deciding whether to use certain existing and readily available data and information as a basis for including waters on the list (*e.g.*, what constitutes "sufficient credible" data and information as defined in Montana law). These criteria were developed in accordance with the following provisions from Montana law, which require the Montana MTDEQ to make its listing decisions based on existing and readily available data.

After close review, EPA concludes that the listing methodology developed and employed by MTDEQ in developing its year 2006 Section 303(d) list is consistent with Section 303(d) of the CWA, EPA's regulations, and EPA's guidance and is a reasonable approach to determine waters that should be included on the State's §303(d) list.

In evaluating Montana's listing methodology, EPA compared the State's methodology with its own guidance on assessing waters. EPA has long taken the position that the methods states use to determine whether waters meet standards for purposes of §303(d) lists are the same as the methods to make this same determination for purposes of §305(b) reports. See, for example, the following statement in a 1992 EPA guidance document:

> Q: *How does EPA define attainment of water quality standards?*
>
> The methods used to determine non-attainment of standards for water quality reporting under 305(b) should also be used for identifying waters pursuant to Section 303(d). These decision criteria and methodologies are provided in Appendix B - "Making Use-Support Determinations" of Guidelines for Preparation of the 1992 State Water Quality Assessments (305(b) Reports). This guidance document addresses the use of monitoring data and evaluative information to decide whether standards are being met and provides specific criteria for what constitutes an exceedance.[3]

Montana's listing methodology is described in its year 2006 Section 303(d) submittal. Montana's listing methodology for its year 2002, 2004 and 2006 Section 303(d) lists followed this approach by substantially relying on EPA's most recent Section 305(b) assessment guidance as a model. In particular, Montana generally followed EPA's most recent 305(b) assessment guidance,[4] which provides for

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[3] "This statement comes from the an attachment to the August 13, 1992 memorandum from Geoffrey H. Grubbs to Water Quality Branch Chiefs, Regions I-X and TMDL Coordinators, Regions I-X. It is the answer to the second question in the "Questions and Answers For the EPA/State Workshops Held Winter 1991-2."

[4] Guidelines for Preparation of the Comprehensive State Water Quality Assessments (305(b)Reports) and

evaluating the level of rigor in qualitative and quantitative data, determining which data could be excluded from assessment procedure, which thresholds could be used to determine waterbody impairment conditions, and how to organize and report results.

There are significant similarities between EPA's Section 305(b) guidance and Montana's methodology. For example, the tables in EPA's 1997 guidance concerning the rigor of biological, habitat, toxicological and physical/chemical data (Tables 3-1, 3-2, 3-3, 3-4) use many of the same factors as used in the State's tables for biology, chemistry/toxicity, and habitat/physical evaluation (Tables 1-3 in *Standard Operating Procedure Water Quality Assessment Process and Methods*). The factors included in both EPA's guidance and in the State's methodology include such things as temporal and spatial coverage of the data, the age of the data, the quality assurance protocols used to collect the data, and precision associated with the data. Likewise, the numeric thresholds used by the State to determine whether a waterbody was impaired are very similar to the thresholds recommended by EPA in its 1997 guidance.

Because the State followed EPA's Section 305(b) assessment guidance in structuring its methodology for developing its Section 303(d) list, EPA finds the State's methodology reasonable. The term "sufficient credible data" is important to Montana's determination. Under Montana law, as amended in 1997, that term is defined as follows: "Sufficient credible data" is defined as chemical, physical, or biological monitoring data, alone or in combination with narrative information, that supports a finding as to whether a water body is achieving compliance with applicable water quality standards. (See MCA Section 75-5-103(30)).

According to EPA regulations, states must supply a rationale for any decision to not use any existing and readily available data and information. (See 40 CFR Part 130.7(b)(6)(iii)). For Montana, this rationale is basically the test of sufficient credibility. This test of sufficient credibility was patterned after EPA's 1997 Section 305(b) assessment guidance. In assessing whether data met the threshold for being "sufficiently credible" under Montana state law, MTDEQ considered all data that it had identified as existing and readily available from the searches described above. In evaluating the sufficiency of the data, MTDEQ ranked the data using factors included in EPA's assessment guidance for the purpose of evaluating the rigor of data. (See EPA's 1997 Section 305(b) assessment guidance). The assemblage of data and information for any given waterbody was ranked for its sufficiency according to the procedure identified in Figure 3 in the document, *Standard Operating Procedure Water Quality Assessment Process and Methods*. Again, this constitutes the State's rationale for using or not using any particular data or information in its listing decision.

The factors used to evaluate data and information for sufficiency included temporal and spatial coverage of the data, age of the data, quality assurance protocols used to collect the data, and precision associated with the data. For example, Montana took into account age of data as one of the factors it considered in deciding whether to list waters. In some cases, historical data by itself was not used as a basis for listing, such as locations where land use practices have changed since the data was collected. In other cases, historical data was used as a basis for listing, such as situations where the state concluded that the data had been colleted using good quality control and there was no indication that conditions had changed since the data was collected. Thus, no single factor was used to list or remove previously-listed waters. Instead, these factors were considered together using the State's methodology for scoring data

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Electronic Updates: Supplement," September 1997, EPA-841-B-97-002B. Unless otherwise indicated, any reference to EPA's "Section 305(b) assessment guidance," "1997 guidance," "1997 Section 305(b) assessment guidance" will mean this document.

and information, described in more detail in the State's list submission. These factors are consistent with EPA's guidance on evaluating data and information for waterbody assessments.

This evaluation of data sufficiency was performed on a waterbody-by-waterbody basis. The State's documented results of the waterbody-by-waterbody evaluation by including for each waterbody file a description of the data and information available for the waterbody, the sources of the data and information, and results of the data ranking. EPA acknowledges that states may re-evaluate the waters on their Section 303(d) lists. In a 1997 memorandum, EPA stated that ". . . Regions and states should keep in mind that waterbodies may be added or subtracted over time as new lists are developed."[5] Accordingly, in an August 27, 1997 memorandum, EPA identified several conditions that allow states to remove previously-listed waters from §303(d) lists. In addition to de-listing a waterbody when a TMDL has been established for it, states may delist a waterbody when:

> 1) the waterbody is meeting all applicable water quality standards or is expected to meet these standards in a reasonable time frame (e.g., two years) as a result of implementation of required pollutant controls or;
> 2) if, upon re-examination, the original basis for listing is determined to be inaccurate.[6]

Further, the existing EPA regulations require states, at the request of the Regional Administrator, to demonstrate good cause for not including waterbodies on their lists. Good cause includes, but it not limited to, more recent and accurate data, more sophisticated water quality modeling, flaws in the original analysis that led to the waterbody being listed, or changes in conditions, *e.g.*, new control equipment, or elimination of discharges. (See 40 CFR 130.7(b)(6)(iv)).

Attachment #2 of EPA's approval letter summarizes the segment/pollutant combinations with good cause for removal from the Section 303(d) list. In addition, Appendix D of the State's Integrated Report identifies the beneficial use designation changes between 2004 and 2006.

In its review of the State's year 2006 waterbody list, EPA took special care to review the methodology and resultant de-listings from Montana's list. EPA and MTDEQ instituted a technical and administrative review process for the 2006 Integrated Report to insure consistent application of the State's Sufficient and Credible Data Process. Having reviewed Montana's submission and supporting documentation, EPA has concluded that Montana has acted reasonably and within the discretion that current EPA regulations allow in de-listing waterbodies. EPA reviewed all waterbody-pollutant combinations delisted from the 1996 Section 303(d) list and requested additional rationale from MTDEQ regarding an estimated 65 waterbodies. MTDEQ's response to EPA's comments on these waterbodies demonstrates that MTDEQ consistently followed its assessment process in making impairment determinations.

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[5] Page 4, August 8, 1997 memorandum from Robert Perciasepe, Assistant Administrator for Water, US EPA, regarding "New Policies for Establishing and Implementing TMDLs."

[6] August 27, 1997 memorandum from Robert H. Wayland III, Director, Office Wetlands, Oceans, and Watershed, Office of Water, EPA Headquarters, to Water Division Directors, Regions I - X, and Directors, Great Water Body Programs, and Water Quality Branch chiefs, Regions I - X, regarding "National Clarifying Guidance For 2000 State and Territory Section 303(d) Listing Decisions."

D. Priority Ranking

As part of their lists, states must prioritize waters for TMDL development, taking into account the severity of the pollution and the uses to be made of such waters. (See Section 303(d)(1)(A) of the CWA and 40 C.F.R. Section 130.7(b)(4)). As long as states take these required factors into account, the CWA does not require States to prioritize their waters in any specified manner. States may use their discretion in establishing priorities for TMDLs.

As part of its prioritization efforts, Montana established a schedule for developing TMDLs in accordance with the June 21, 2002 and September 21, 2002 orders in Friends of the Wild Swan, *et al.* v. U.S. Environmental Protection Agency, *et al.*, CV 97-35-M-DWM, U.S. District of Montana, Missoula Division. This schedule sets deadlines by which TMDLs for WQLSs in each Montana watershed will be completed. As required by the court orders, this schedule is based on the waters on Montana's 1996 list. This schedule is included in Appendix F a part of the 2006 Section 303(d) submittal.

The State considers this schedule as an expression of its TMDL development priorities. After the year 2002 listing process, the State concluded that its TMDL development schedule, which generally followed prioritization of listed waters, did not always reconcile exactly with the priorities published in its year 2002 list. For that purpose, the State has elected to use the schedule (a product of court order) as an expression of priorities for TMDL development as part of its year 2006 list. A waterbody-by-waterbody priority ranking is not found in the table of waters on the State's list. Rather, the priority ranking is expressed through the TMDL development schedule as required by the court. It should also be noted that minor adjustments have been made to the State's schedule to reflect shifting priorities and the ability to collect the needed data and information for any particular waterbody. The adjustments have changed the due date for certain TMDLs, but has not changed the overall pace associated with TMDL development. EPA and the State have agreed upon these changes. Further, changes to the schedule have been subject to public comment along with the State's Section 303(d) list.

EPA concludes that this approach is reasonable since the TMDL schedule was developed taking into consideration the statutory elements related to waterbody prioritization (i.e., the severity of the pollution and the uses to be made of such waters).

Montana State law has been modified to reflect a 2012 deadline for TMDL completion. On November 18, 2004, the U.S. District Court agreed to the 2012 extension and approved a Joint Motion to Amend. As a result, EPA and MTDEQ are revising the November 1, 2002 schedule and will be identifying the order for TMDL completion. This schedule meets the 40 CFR Part 130.7(b)(4) provision requiring states to identify waters that will be targeted for TMDL development over the next two years.

E. Endangered Species Act Issues

Consistent with the terms of a consent decree in the lawsuit of Friends of the Wild Swan, *et al.*, v. U.S. Environmental Protection Agency, *et al.*, Civil Action No. CV99-87-M-LBE, United States District Court for the District of Montana, Missoula Division, EPA has consulted with the U.S. Fish and Wildlife Service on our proposed approval of the State's list. Our biological evaluation that addressed our approval was submitted to the Service in accordance with Section 7 of the Endangered Species Act. In our evaluation, we assessed the effects of our approval on the threatened, endangered, proposed, and candidate species throughout the State. Our conclusion was that our approval of the State's list would not likely have an adverse effect on the species of concern. Any effect of the list approval was seen as either insignificant or beneficial to the species. As stated in the cover letter, EPA has decided to approve the State's 2006 Section 303(d) list contingent upon the outcome of consultation with the FWS.

It has been suggested that all waters that contain or have contained species that have been listed as threatened or endangered under the Endangered Species Act ("T&E species") should be included on Montana's Section 303(d) list. Montana decided not to list waters solely due to the presence or absence of T&E species. EPA agrees with Montana's decision. As mentioned above, Section 303(d)(1)(A) of the CWA requires only that states identify those waters for which limitations in Sections 301(b)(1)(A) and (b)(1)(B) of the CWA are not stringent enough to implement any applicable water quality standards. In and of itself, the presence or absence of T&E species gives no indication of whether such effluent limits are or are not sufficient to implement these standards. Further, the cause for impairment of any particular waterbody must be evaluated in light of the requirement in Section 303(d)(1)(A).

The cause for the demise or extirpation of any given T&E species is frequently linked to factors that go beyond those factors used for listing waters on a Section 303(d) list. For example, competition between an aquatic T&E species and other more abundant aquatic species is sometimes cited as a reason for the decline of the T&E species. Competition between these species would not constitute a reason for listing a water on a §303(d) list. On the other hand, poor water quality is often cited as a cause for the decline of T&E species and is also a reason for listing waters on a §303(d) list. Where the State of Montana had information on factors such as water quality that relate to the §303(d) listing process, it included those waters on its list. (Many of these waters have T&E species in them.)

Factors that contribute to the demise or extirpation of a given T&E species can be found in determinations of the U.S. Fish and Wildlife Service. For example, the numbers of threatened bull trout have declined in the Columbia River basin because of habitat isolation, loss of migratory corridors, poor water quality, and the introduction of non-native species. (See 63 FR 31947; June 10, 1998 Federal Register Notice from US Fish and Wildlife Service regarding the determination of Threatened Status for the Klamath River and Columbia River Distinct Population Segments of Bull Trout.) Further, factors affecting bull trout populations include competition and hybridization with other species, fragmentation and isolation of bull trout from habitat changes caused by human activities, and extirpations due to naturally occurring events such as droughts and floods. (See 63 FR 31668.) In its §303(d) list, Montana identified waterbodies where factors such as habitat, flow, and water quality contribute to impairment of aquatic life, including bull trout and other T&E species. The State did not list a waterbody where there was no sufficient credible information showing that aquatic life uses (including T&E species uses) were impaired for the specific waterbody, including impairments caused by habitat, flow, and water quality. Factors such as hybridization, species competition, and loss of migratory corridors are not seen as a basis to list waters on a Clean Water Act §303(d) waterbody list.

F. References

The following list includes documents that were used directly or indirectly as a basis for EPA's review of the State's Section 303(d) waterbody list. This list is not meant to be an exhaustive list of all records reviewed, but to provide the primary documents the Region relied upon in making its decisions to approve the State's list.

40 CFR Part 130 Water Quality Planning and Management

40 CFR Part 131 Water Quality Standard

December 28, 1978 Federal Register Notice, *Total Maximum Daily Loads Under Clean Water Act,* finalizing EPA's identification of pollutants suitable for TMDL calculations, 43 FR 60662.

January 11, 1985 Federal Register Notice, *40 CFR Parts 35 and 130, Water Quality Planning and Management: Final Rule*, 50 FR 1774

April 1991, "Guidance for Water Quality-Based Decisions: The TMDL Process," EPA 440/4-91-001.

July 24, 1992 Federal Register Notice, *40 CFR Parts 122, 123, 130,* revision of regulation, 57 FR 33040

August 13, 1992 memorandum from Geoffrey Grubbs, Director, Assessment and Watershed Protection Division, Office of Water, EPA Headquarters, to EPA Water Quality Branch Chiefs, Regions I - X and TMDL Coordinators, Regions I - X, regarding "Supplemental Guidance on Section 303(d) Implementation."

October 30, 1992 memorandum from Geoffrey Grubbs, Director, Assessment and Watershed Protection Division, Office of Water, EPA Headquarters, to Water Quality Branch Chiefs, Regions I - X, regarding "Approval of 303(d) Lists, Promulgation Schedules/Procedures, Public Participation."

November 26, 1993 memorandum from Geoffrey Grubbs, Director, Assessment and Watershed Protection Division, Office of Water, EPA Headquarters, to Water Quality Branch Chiefs, Regions I - X, and TMDL Coordinators, Regions I - X, regarding "Guidance for 1994 Section 303(d) Lists."

August 27, 1997 memorandum from Robert H. Wayland III, Director, Office Wetlands, Oceans, and Watershed, Office of Water, EPA Headquarters, to Water Division Directors, Regions I - X, and Directors, Great Water Body Programs, and Water Quality Branch chiefs, Regions I - X, regarding "National Clarifying Guidance For 2000 State and Territory Section 303(d) Listing Decisions."

September, 1997 guidance from Office of Water, Headquarters, US EPA regarding Guidelines for Preparation of the Comprehensive State Water Quality Assessments (305(b) Reports) and Electronic Updates: Supplement, EPA-841-B-97-002B

September 12, 1997 letter from Carol L. Campbell, Director, Ecosystems Protection Program, Office of Ecosystems Protection & Remediation, US EPA, Region VIII to Gary Beach, Administrator, Water Quality Division, Montana Department of Environmental Quality regarding "Transmittal of TMDL Guidance."

November 24, 1997 letter from Governor Jim Geringer, State of Montana, to Jack McGraw, (Acting) Regional Administrator, EPA, Region VIII regarding transmittal of the State's Continuing Planning Process.

January 6, 1998 letter from Bruce Zander, TMDL Coordinator, US Environmental Protection Agency, Region VIII to Bobbie Frank, Executive Director, Montana Association of Conservation Districts regarding "Section 319 Projects and Section 303(d) Waterbody Lists."

February 4, 1998 letter from Max H. Dodson, Assistant Regional Administrator, Office of Ecosystems Protection and Remediation, US EPA, Region VIII to J. David Holm, Director, Water Quality Control Division, Colorado Department of Public Health and Environment and Region VIII Water Quality Directors (including Gary Beach, Administrator, Water Quality Division, Montana Department of Environmental Quality) regarding "303(d) Listing Requirements; Expiring Permits."

April 10, 1998 memorandum from Jack Smith, Watershed Program Principal (Montana Department of Environmental Quality) to TMDL Workgroup Members regarding "Proposed 5-year Monitoring

Schedule."

April 24, 1998 draft final report from the TMDL Federal Advisory Committee to US EPA entitled TMDL Federal Advisory Committee Report prepared with assistance from Ross & Associates Environmental Consulting, Ltd.

April 27, 1998 handout from Jack Smith, Watershed Program Principal (Montana Department of Environmental Quality) to TMDL Workgroup Members regarding "Factors Considered in Formulating the Draft 5-Year Monitoring Schedule."

February 24, 1999 WS 35-11-103(c) and WS 35-11-302(b)(i) and (ii) Credible Data Law

August 23, 1999 64 Federal Register 46012 Proposed Revisions to the Water Quality Management and Planning Regulations.

April 26, 2000 "Application and Interpretation of Bioassessment Data in Montana: The Montana Stream Integrity Index"; Presentation and Handout by Jack Smith (Monitoring Program supervisor, Water Quality Division, Montana Department of Environmental Quality.

April 27, 2000 65 Federal Register 24641 EPA Review and Approval of State and Tribal Water Quality Standards.

April 28, 2000 memorandum from Robert H. Wayland, III (Director, Office of Wetlands, Oceans, and Watersheds) to Water Division Directors, Regions 1 - 10 entitled "EPA Review of 2000 Section 303(d) lists."

July 1, 2002 letter from Jeremy ZumBerge, Monitoring and Assessment Supervisor, Water Quality Division, Montana Department of Environmental Quality to Bruce Zander, TMDL Coordinator, Region VIII, US EPA regarding field monitoring schedule for 2002.

July 10, 2002 letter from Gary Beach (Administrator, Water Quality Division, Montana Department of Environmental Quality) to Max Dodson (Assistant Regional Administrator, US EPA; Region VIII) regarding transmittal of 2002 Section 303(d) List of Watebodies Requiring TMDLs.

July 2003 memorandum from Diane Regas, Director, Office of Wetlands, Oceans, and Watersheds EPA Headquarters, to Water Quality Branch Chiefs, and TMDL Coordinators (US EPA Regions I - X), regarding Guidance for 2004 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d) and 305(b) of the Clean Water Act; TMDL-01-03.

March 12, 2004 letter from Karen Hamilton, Chief Water Quality Unit, US EPA Region VIII, to Michael Pipp (Water Quality Report Coordinator, Montana Department of Environmental Quality) regarding "EPA's Comments on Montana's 2004 Draft 303(d) List of Impaired Waters."

April 21, 2004 memorandum from Tina Laidlaw (Montana 303(d) Coordinator, US EPA Region VIII) to Michael Pipp (Water Quality Report Coordinator, Montana Department of Environmental Quality) regarding "EPA's Review of Montana DEQ's Assessment Record Sheets."

(Director, Montana Department of Environmental Quality) to Robbie Roberts regarding the submission of the final 2006 Integrated Report for Montana.

December 8, 2006 memorandum from Richard Opper, Director, Montana Department of Environmental Quality to Robert E. Roberts, Regional Administrator, EPA Region VIII regarding transmittal of the "Final 2006 Integrated Water Quality Report (Integrated Report)."

December 27, 2006 letter from Karen Hamilton, Chief Water Quality Unit, US EPA Region VIII, to Mark Wilson, Field Supervisor, US Fish and Wildlife Service, Helena, Montana regarding "Request for Concurrence on Section 7 (ESA) Findings, Montana's Year 2006 Section 303(d) Waterbody List."

ATTACHMENT #2

Table Summarizing the Waterbody-Pollutant Combinations Removed from the 2006 303(d) List.

BASIN	HUC	SEGMENT ID	LOCATION DESCRIPTION	CAUSE DELISTED
Yellowstone	10110201	MT39F001_010	THOMPSON CREEK, State line to mouth	Suspended solids
Yellowstone	10110204	MT39G002_010	LAMESTEER NATIONAL WILDLIFE REFUGE T12N R60E Sec 15	Nutrients
Lower Missouri	10040203	MT40B001_040	NORTH FORK FLATWILLOW CREEK, Headwaters to confluence with South Fork	Thermal modifications
Lower Missouri	10050009	MT40I001_040	KING CREEK, Headwaters to Fort Belknap Reservation boundary	Nitrogen, Nitrate
Lower Missouri	10050009	MT40I001_040	KING CREEK, Headwaters to Fort Belknap Reservation boundary	Nutrients
Lower Missouri	10050009	MT40I001_040	KING CREEK, Headwaters to Fort Belknap Reservation boundary	Cadmium
Lower Missouri	10050009	MT40I001_040	KING CREEK, Headwaters to Fort Belknap Reservation boundary	Lead
Lower Missouri	10050009	MT40I001_040	KING CREEK, Headwaters to Fort Belknap Reservation boundary	Chromium (Total)
Lower Missouri	10050009	MT40I001_040	KING CREEK, Headwaters to Fort Belknap Reservation boundary	Sedimentation/Siltation
Lower Missouri	10050008	MT40J004_010	BATTLE CREEK, Canadian border to the mouth (Milk R)	Nutrients
Lower Missouri	10050012	MT40O001_010	MILK RIVER, Beaver Cr to the mouth (Missouri R)	Nutrients
Upper Missouri	10020003	MT41C002_020	MILL CREEK from headwaters to mouth (Ruby R)	Lead
Upper Missouri	10020003	MT41C002_020	MILL CREEK from headwaters to mouth (Ruby R)	Zinc
Upper Missouri	10020003	MT41C002_040	ALDER GULCH,headwaters to mouth (Ruby River)	Copper
Upper Missouri	10020003	MT41C003_020	COAL CREEK from headwaters to mouth (Middle Fork Ruby R)	Thermal modifications
Upper Missouri	10020004	MT41D004_030	JOHNSON CREEK, Headwaters to mouth (North Fork Big Hole R)	Copper
Upper Missouri	10020004	MT41D004_030	JOHNSON CREEK, Headwaters to mouth (North Fork Big Hole R)	Lead
Upper Missouri	10020004	MT41D004_220	DOOLITTLE CREEK, tributary to the Big Hole River T1S, R14W	Suspended solids
Upper Missouri	10020007	MT41F005_030	ENNIS LAKE	Nutrients
Upper Missouri	10020005	MT41G002_100	FISH CREEK from headwaters to mouth (Jefferson R)	Cadmium
Upper Missouri	10030101	MT41I003_010	CANYON FERRY RESERVOIR	Mercury
Upper Missouri	10030101	MT41I003_010	CANYON FERRY RESERVOIR	Unionized Ammonia
Upper Missouri	10030101	MT41I006_030	PRICKLY PEAR CREEK from Highway 433 (Wylie Dr.) Crossing to Helena WWTP Discharge	Nutrients
Missouri-Sun-Smith	10030103	MT41J002_030	SHEEP CREEK, headwaters to the mouth (Smith River)	Pathogens
Missouri-Sun-Smith	10030103	MT41J002_081	NEWLAN CREEK, Newlan Reservoir to the mouth (Smith River)	Pathogens
Upper Missouri	10030104	MT41K001_010	SUN RIVER from Gibson Dam to Muddy Cr	Nutrients
Upper Missouri	10030104	MT41K001_020	SUN RIVER from Muddy Cr to the mouth (Missouri R)	Salinity/TDS/sulfates

Upper Missouri	10030102	MT41Q001_011	MISSOURI RIVER from the Sun R to Rainbow Dam	PCB's
Upper Missouri	10030102	MT41Q001_013	MISSOURI RIVER from Rainbow Dam to the Morony Dam	PCB's
Upper Missouri	10030102	MT41Q001_014	MISSOURI RIVER from Morony Dam to the Marias R	Thermal modifications
Upper Missouri	10030102	MT41Q003_010	DEARBORN RIVER from Falls Cr to the mouth (Missouri R)	Siltation
Lower Missouri	10040103	MT41S004_030	BEAVER CREEK from headwaters to the mouth (Cottonwood Cr)	Nutrients
Lower Missouri	10040103	MT41S004_030	BEAVER CREEK from headwaters to the mouth (Cottonwood Cr)	Siltation
Middle Missouri	10040101	MT41T001_010	MISSOURI RIVER,the Marias River to the Bullwhacker Creek	Mercury
Yellowstone	10100003	MT42A001_012	ROSEBUD CREEK, Northern Cheyenne Res. Boundary to an irrigation dam 3.8 mi above the mouth	Nutrients
Yellowstone	10070006	MT43D002_031	BLUEWATER CREEK from mouth 9 miles upstream (Clarks Fork Yellowstone R)	Thermal modifications
Columbia	17010103	MT76B002_090	WEST FORK YAAK RIVER [excluding Canadian portion] headwaters to mouth (Yaak R)	Siltation
Columbia	17010203	MT76F002_060	SANDBAR CREEK from forks to mouth (Willow Cr)	pH
Columbia	17010201	MT76G001_010	CLARK FORK RIVER from Flint Cr to the Little Blackfoot R	Nutrients
Columbia	17010205	MT76H002_040	MOOSE CREEK from headwaters to the mouth (East Fork Bitterroot R)	Nutrients
Columbia	17010205	MT76H002_040	MOOSE CREEK from headwaters to the mouth (East Fork Bitterroot R)	Siltation
Columbia	17010205	MT76H003_050	OVERWHICH CREEK from headwaters to the mouth (West Fk Bitterroot R)	Lead
Columbia	17010207	MT76I002_010	GRANITE CREEK, Confluence of Dodge Cr & Challenge Cr to mouth (Middle Fk Flathead)	Siltation
Columbia	17010207	MT76I002_050	MORRISON CREEK from headwaters to mouth (Middle Fk Flathead R)	Siltation
Columbia	17010211	MT76K003_031	GOAT CREEK from headwaters to Squeezer Cr.	Nutrients
Columbia	17010211	MT76K003_032	GOAT CREEK from Squeezer Cr. to mouth (Swan R)	Siltation
Columbia	17010211	MT76K003_062	PIPER CREEK from Moore Cr. to mouth (Swan R)	Siltation
Columbia	17010213	MT76N005_010	FISHTRAP CREEK from headwaters to the mouth (Thompson R)	Siltation
Columbia	17010210	MT76P003_010	WHITEFISH RIVER Whitefish Lake to the mouth, confluence with the Stillwater R	Priority organics
Columbia	17010206	MT76Q002_020	RED MEADOW CREEK from headwaters to mouth (North Fork Flathead R)	Siltation
Columbia	17010206	MT76Q002_030	WHALE CREEK from headwaters to mouth (North Fork Flathead R)	Siltation
Columbia	17010206	MT76Q002_040	SOUTH FORK COAL CREEK from headwaters to mouth (CoaL Cr)	Siltation

ATTACHMENT #3
EPA Comments Provided to DEQ on the Draft Integrated Report
During the Public Comment Period

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 W. 15th STREET, SUITE 3200

Ref: 8MO

October 4, 2006

Art Compton
Montana Department of Environmental Quality
1520 East Sixth Avenue
Helena, MT 59620-0901

RE: Draft 2006 Water Quality Integrated Report

Dear Art:

We have been working collaboratively with your Quality Assurance Officer, Mark Bostrom, to conduct a review of the draft 2006 Integrated Report (IR). To date, we have completed a review of the main document and have also reviewed the Assessment Records for all of the waters that have been delisted in the Columbia and Upper Missouri Basins. Over the next couple of weeks, we plan to review the remaining waters that have been delisted.

Please note that this is an informal review. EPA's formal review will not be initiated until you officially submit the final IR. Although this is an informal review and it is not yet complete, we are providing you with these comments now to provide you with as much time as possible to make modifications prior to submitting the final document. Once we complete our review of the remaining delisted waters, we will follow-up with additional comments.

The following comments have been presented in hierarchical order, with the highest priority comments first and the lowest priority comments last.

1. States must show "good cause" for any segments that have been delisted. Good cause is defined in 40 CFR Part 130, Section 7, Paragraph (b)(6)(iv) and includes, but is not limited to, more recent or accurate data; more sophisticated water quality modeling; flaws in the original analysis that led to the water being listed in the categories in §130.7(b)(5); or changes in conditions, e.g., new control equipment, or elimination of discharges.

   Prior to release of the draft IR to the public, we jointly reviewed all of the delistings in the Columbia River Basin to ensure that "good cause" was provided. Since the IR was made

available for public comment, we have reviewed all of the delistings in the Upper Missouri Basin and it does not appear that good cause has been provided for the following segments:

Waterbody ID #	Waterbody Name	Waterbody ID #	Waterbody Name
MT41D003_120	Twelvemile Creek	MT41F004_030	Beaver Creek
MT41Q003_040	Flat Creek	MT41H003_050	Jackson Creek
MT41Q002_050	Box Elder Creek	MT41F004_120	Gazelle Creek
MT41D004_140	Miner Creek	MT41H003_040	Sourdough Creek
MT41I001_011	Missouri River	MT41J002_060	Elk Creek
MT41J002_100	Little Camas Creek	MT41D004_090	Joseph Creek
MT41F004_150	Buford Creek	MT41C003_080	West Fork of Ruby River
MT41A004_060	Hell Roaring Creek	MT14C003_150	Shovel Creek
MT41D004_040	Shultz Creek	MT41H003_020	East Gallatin River
MT41C003_140	Hawkeye Creek	MT41H003_030	East Gallatin River

Unless "good cause" can be demonstrated and provided in the administrative record, the previously listed impairments should be carried forward in the 2006 IR.

2. Appendix D of Montana's draft Integrated Report summarizes beneficial use designation changes from 2004 to 2006. In addition to this information, we request a summary of segment / pollutant combinations added or removed from 2004 to 2006. As an example, EPA's Integrated Report guidance provides a recommended format for states to summarize this information.

3. The description of Category 2, 2A, and 2B in Part C.3 is confusing and should be clarified.

4. Much of the information in the "Nonpoint Source Pollution of Montana" subsection of Part B.2 is based on old information (i.e., 2000 Montana Water Quality Assessment Database) and is currently outdated. For example, the "top five impairment sources" listed in Table 7 is not based on information in the current version of the assessment database.

5. The "Nonpoint Source Benefits" subsection of Part B.3 appears to be based on outdated information and the nonpoint source benefits are not well described.

6. The combination of text and tables provided in the "Designated Use Support Summaries" subsection of Part C.3 provide an inadequate level of interpretation. In general, as currently presented, it is difficult for the reader to easily glean the important facts and/or key points.

7. Forestry (i.e., silviculture) should not be lumped with agriculture in the "agriculture" subsection of Part B.2.

8. The organizational format of the document (i.e., Part A, Part B, B-1, B-2, etc.) is awkward and the "flow" from one section to the next is often unclear. This document may be better organized using a numeric style/format (e.g., 1.0, 1.1, 1.1.1, etc) with a unique numeric header for each section and subsection.

9. Table 23 (Laboratory test results for Mercury and PCB's in Fish in Montana) can be summarized to present the key points /findings or an interpretation of the data. Otherwise, it is difficult for the reader to understand the key points.

10. As currently presented, it is unclear to the reader what Figures 4- 7 are intended to depict or what the points represent (e.g., sites, streams).

11. Section C describes MTDEQ's monitoring programs. The inclusion of Table 9 ("1996 versus 2006 Cause listings") in the middle of these program descriptions is awkward and confusing to the reader.

12. In general, Part B.2 is more detailed than necessary and could be streamlined by reducing the narrative and referring to other MTDEQ documents.

Please feel free to call me at (406) 457-5024 if you have any questions or need further clarification.

Sincerely,

Ronald F. Steg
Montana TMDL Program Coordinator

Cc: Tina Laidlaw, 8MO
Julie Dalsoglio, 8MO
Jim Ruppel, 8EPR-EP
George Mathieus, MDEQ-PPAD
Mark Bostrom, MDEQ-PPAD
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