



# AMERICAN FISHERIES SOCIETY

## MONTANA CHAPTER



Water Quality Planning Bureau  
Montana Department of Environmental Quality  
PO Box 200901  
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Helena, MT 59601

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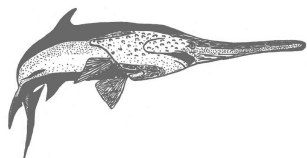
Dear Mr. Yashan,

The Montana Chapter of the American Fisheries Society (MCAFS) appreciates the opportunity to comment on the draft total maximum daily load (TMDL) and water quality restoration plan for the lower Blackfoot River watershed. The watershed provides not only critical habitat, but also an important movement corridor, for several native aquatic species, including bull trout (*Salvelinus confluentus*) and westslope cutthroat trout (*Oncorhynchus clarki lewisi*). The MCAFS is an organization of professional fisheries scientists and students from multiple agencies, universities, and the private sector across Montana. Our comments on this plan are founded on our vested interest in the management and integrity of Montana's water resources and the conservation of her native species. Thank you for the opportunity to review and comment on this plan.

Our first comment regards the fact that DEQ did not address nutrients in this plan. Despite nutrient listings for several streams on the 1996 and 2006 lists, DEQ does not include TMDLs for nutrients, citing the pending development of a numeric standard for nutrients as justification. DEQ is inconsistent in its decision-making with regard to nutrients, as the plan for the upper Big Hole River watershed includes nutrient TMDLs for two streams. The upper Big Hole River watershed plan uses an adaptive approach that acknowledges that establishment of a nutrient standard may alter TMDL targets. Significantly, the Big Hole plan provides basin residents and natural resource managers a framework to begin working on this water quality concern.

DEQ's postponement of TMDLs for nutrients has implications for the threatened bull trout that occupy streams in the basin as nodal or core habitat. Bull trout are benthically oriented and highly selective of clean substrates. Accumulations of benthic algae decrease the suitability of habitat for bull trout, presenting another constraint on this imperiled species. DEQ should have followed the approach developed in the plan for the upper Big Hole River watershed that allows progress towards improving water and habitat quality, rather than state equivocally that TMDLs for nutrients may occur in the future.

The presence of whirling disease in the lower Blackfoot River watershed provides an additional justification to address nutrient enrichment. Making a definitive connection between nutrient enrichment and whirling disease is difficult. Nonetheless, *Tubifex tubifex*, the intermediate host to the protozoan causing whirling disease, is highly tolerant of eutrophication, and nutrient enrichment is among risk factors for this disease. DEQ possesses information indicating some potential for nutrient enrichment to increase risks of whirling disease and decrease support of cold-water fisheries in Camas Creek, one of the nutrient impaired streams in the planning area. Of particular relevance are data assessment record sheets for Camas Creek that noted high numbers of tubificid worms in benthic samples. Delaying planning to reduce nutrient loading is counter to the interests of westslope cutthroat trout occupying this stream.



Our second comment regards DEQ's interpretation of federal court order. DEQ makes a misleading and erroneous statement on page 14 of the document. Specifically, "By federal court order, DEQ must address all pollutant/ water body combinations appearing on the 2006 list." The federal court order makes no mention of the 2006 list, and in fact predates 2006, having been issued in 2000. The court order requires establishment of "TMDLs for (water quality limited segments) identified on Montana's 1996 list."

Presumably, DEQ justifies this incorrect portrayal of the content of the court order by considering the improved listing methodology incorporated since 1996, which are required under statute. Expressly, the Montana Water Quality Act states:

In revising the list prepared pursuant to this section, the department shall use all currently available data, including information obtained from federal, state, and local agencies, private entities, or individuals with an interest in water quality protection. Except as provided in subsection (6), the department may modify the list only if there is [*sic*] sufficient, credible data to support the modification (Montana Code Ann. § 75-5-205[2] [2007]).

Neither the court order nor statute reproduced above provides justification for the indefinite postponement of nutrient TMDLs for streams in the lower Blackfoot River watershed.

Our third and final comment relates to DEQ's adherence to the statutory requirement to use all currently available data. Review of the data assessment record sheet for the Blackfoot River suggests DEQ did not meet this requirement. According to the sheets, DEQ reviewed nutrient data in the STOREASE database containing monitoring data from the 1970s. The EPA replaced STOREASE with STORET over a decade ago, so DEQ's use of the obsolete database, and apparent overlook of STORET is puzzling. The readily accessible STORET database has over 2,000 records of nutrient analyses conducted from samples collected along the main stem of the lower Blackfoot River over the past two decades, and DEQ collected a large portion of these samples. DEQ has the responsibility to incorporate these more recent data into its sufficient credible data review, and the TMDL planning process.

As significant gaps in reviewed data are evident with cursory investigation, DEQ's claim that the improved method to list compilation justifies ignoring the 1996 list warrants diligence from those interested in conserving Montana's fisheries. Such omissions are not unprecedented. In the TMDL developed for the Shields River watershed, DEQ did not incorporate a substantial amount of nutrient data collected for the main stem of the Shields River, and justified not developing a TMDL as this omission resulted in nutrients not being among the listed pollutants. Similarly, DEQ did not incorporate a considerable data gathered for the TMDL process on numerous tributary streams that may have confirmed sediment impairment.

The shortcomings of the lower Blackfoot watershed TMDL and water restoration plan limit its ability to improve watershed condition and subsequently conserve native fishes, including bull trout and westslope cutthroat trout. We hope that future TMDL plans will be more consistent with regard to which pollutants are addressed, and that these plans will include all available data, as required by court order. We appreciate the opportunity to comment on this plan, and look forward to reading the final draft.

Sincerely,



Dr. Carter G. Kruse, President  
Montana Chapter of the American Fisheries Society