

Portneuf River Watershed Advisory Group Refresher

April 17, 2007

- The Clean Water Act and State Water Quality Code – how does it fit together?
 - Portneuf R. TMDL history?
- Outcomes of this collaborative effort

Idaho and the Clean Water Act

A Brief History

prepared for

Portneuf River Watershed Advisory
Group

April 17, 2007

📄 1972 - Congress passes Clean Water Act, Section 303(d) requires States to submit list of streams not meeting water quality standards every 2 years.

📄 1992 - Idaho submits a list of 31 waterbodies as part of 303(d) requirements.

📄 1993 - The Idaho Conservation League and Idaho Sportsmen's Coalition file lawsuit against EPA alleging that: 1) Idaho's 1992 list did not identify all impaired waters; and 2) Idaho has been lax in developing strategies to clean up impaired waters.

📄 1994 - Court ruled against EPA which directed Idaho to develop a more inclusive list.

- 📄 Idaho submitted a 1994 303(d) list of 62 waterbodies.
- 📄 EPA rejected this list and developed a new list of 962 impaired waterbodies.
- 📄 1995 - Judge ordered EPA to work with DEQ to establish a schedule to develop TMDL's or equivalent clean-up plans.

☰ 1996 – A 25 yr schedule was submitted to the court, rejected by the Judge. EPA given 6 months to submit a new schedule, the Judge recommended 5 years.

☰ DEQ and EPA proposed and the court adopted an 8 year time frame for TMDL development starting in 1998.

☰ Pocatello Regional DEQ office responsible for the following: Portneuf (1998), Blackfoot (1999), Bear River (2002), American Falls Reservoir (2003), Salt River (2004)

1995 - Idaho Legislature passed Senate Bill 1284 amended in 2005 via HB 145 (Idaho Code §39-3601 et.seq.)

- 1) DEQ is responsible for identifying designated uses for all water bodies in the state.
- 2) DEQ is responsible for determining whether water bodies are supporting their beneficial uses by comparison to reference streams.
- 3) Established community-based citizen advisory groups to a) recommend to DEQ how to properly manage impaired watersheds; and b) recommend pollution controls necessary to bring impaired waters into compliance with state water quality standards.

The Clean Water Act, TMDLs and Beneficial Uses

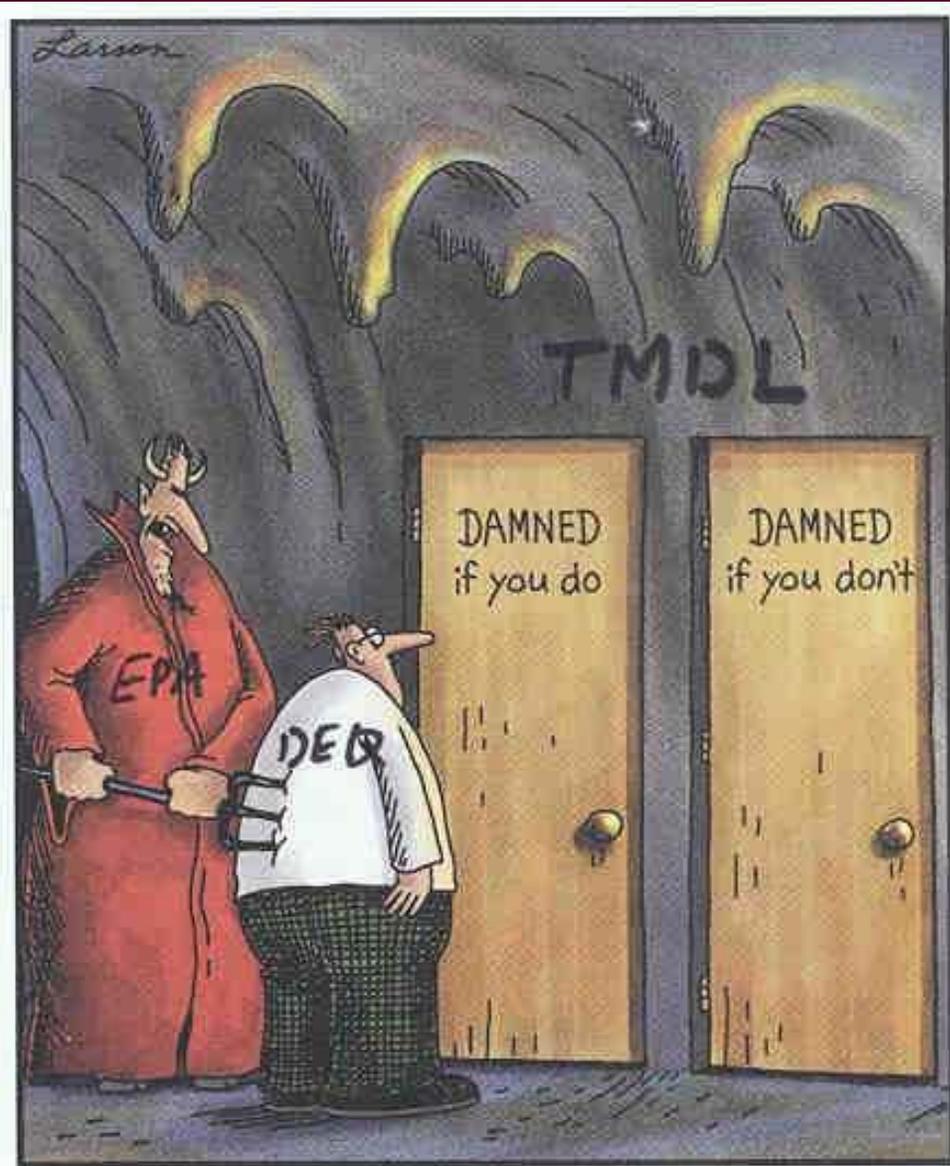
Restore and maintain the chemical,
physical and biological integrity of
the nation's waters.

All waters fishable and swimmable,
where attainable.

State Water Quality Standards

- 1) Designated Beneficial Uses
- 2) Criteria (Narrative and Numeric)
to protect those uses
- 3) Antidegradation framework

What is a TMDL?



“C’mon, c’mon—it’s either one or the other.”

What is a TMDL?

- 1) Identify sources and causes of pollutants.
- 2) Identify the water quality goal (pollutant reductions to meet the goal).
- 3) Determine the total amount of pollutant allowed and what needs to be done to achieve that amount.
- 4) Identify and implement best management practices needed to achieve the goal.
- 5) Monitor the waterbodies to assure goals are being met and modify plan if needed.

HB 145

- 2005 legislature passed a bill (HB145) outlining a more formal procedure for WAG concurrence on a TMDL prior to submittal to EPA (Idaho Code 39-3611)
 - Each TMDL and any supporting subbasin assessment shall be developed and periodically reviewed and modified in consultation with the watershed advisory group for the watershed in which the water bodies are located. Consultation shall include, but not be limited to:

HB 145

- Upon request, providing the WAG with all available information in the possession of the department concerning applicable water quality standards, water quality data, monitoring, assessments, reports, procedures and schedules for developing and submitting the TMDL and any supporting subbasin assessment to the United States Environmental Protection Agency;

HB145

- Utilizing the knowledge, expertise, experience and information of the WAG in assessing the status, attainability or appropriateness of water quality standards, and in developing a TMDL and any supporting subbasin assessment; and
- Providing the WAG with an adequate opportunity to participate in drafting the documents for the TMDL and any supporting subbasin assessment and to suggest changes to the documents.

HB 145

- No TMDL shall be published for public comment or submitted for approval to the EPA until consultation, as herein provided, has occurred. If, after consultation, the WAG disagrees with the TMDL or any supporting subbasin assessment, or has determined that applicable water quality standards should be reevaluated or revised, such position and the basis there of shall be documented in the public notice of availability to the TMDL and any supporting subbasin assessment for review, and in any submission of the same to the EPA. The director shall respond to the points raised by the watershed advisory group and shall document the response in the final decision.

HB 145

- DEQ required to review approved TMDLs every five years.
- Plan is to begin that process in 2008 once original lawsuit schedule is completed.

We refer to this as the BAG's and WAG's process.

BAG's (= Basin Advisory Group) Members appointed by the Director, serve a broad geographical area (ie. - Upper Snake Basin, Salmon Basin)

WAG's (= Watershed Advisory Group) Locally-based, watershed specific (ie.- Blackfoot Watershed Council, Henry's Fork Watershed Council)

BAG Membership Interests

- Mining
- Forestry
- Agriculture
- Livestock
- Local government
- Non municipal NPDES permit holder
- Water based recreation
- Tribal representative
- Environmental representative
- Representative at large

Portneuf TMDL History

- April 1999 - Original submittal to EPA
- April 2001 - City of Pocatello files a petition for administrative review.
- July 2001 – City agrees to stay petition based on agreement with EPA and DEQ

Appendix Table 1. Proposed implementation plan for the Portneuf River Total Maximum Daily Load plan.

Date	Activity	Stakeholders	State of Idaho	City of Pocatello
Jan 2001	TMDL Revised to Include the Proposed Implementation Plan with this Timeline		X _(Lead)	
Feb 2001	<p>Existing Monitoring Program Assessed/Expanded</p> <p>1. Define Monitoring Goals and Objectives (all stakeholders) (Example - What is the background phosphorus concentration in the Portneuf River drainage?)</p> <p>2. Define Frequency of Sampling</p> <p>3. Define Analytical Methods to Assess Data</p> <p>4. Define Sampling Locations</p>	X	X	X _(Lead)
Mar 2001/ Sep 2003	Collect Water Quality Data	X	X	X _(Lead)
Feb 2001/ Sep 2004	<p>Planning for Potential Upgrade</p> <p>(Feasibility Study to meet current TMDL limits and/or other potential limits; identification of available technology, actual cost, cost to rate payers) This will be necessary for the development of a adequate compliance schedule once the Portneuf River TMDL is re-issued.</p>			X _(Lead)
Mar 2001/ Mar 2004	Data Analysis / Pollutant Loading Analysis	X	X _(Lead)	X
Apr 2004	Completion of Refined Allocations for Portneuf River TMDL		X _(Lead)	
May/Jun 2004	Public Notice and Comment on New TMDL Allocations		X _(Lead)	
Jul 2004	Loading Analysis and Load Allocations Submitted to EPA for Review and Approval		X _(Lead)	
Sep 2004	Existing Permit Limits for City of Pocatello Expire - New WLAs/Effluent Limits Ready to be Incorporated into New Permit	EPA Administrative Action		

Outcomes of this Advisory Group

- **The Goal** - restore/maintain beneficial uses in waters of the Portneuf River subbasin
- Accomplished through the TMDL process by 1) utilizing the best available data 2) defining targets applicable to meet the goal and 3) encourage and gain support from entities responsible to implement BMPs to achieve the goal

Role of this Advisory Group

- Help with data and information that is relevant to the watershed and this effort
- Questions, comments and justification of targets selected for this effort
- Member participation to reach affected parties to initiate on-the-ground improvements where needed