

SUMMARY: Comments received by Idaho Department of Environmental Quality (DEQ) during informal Watershed Advisory Group (WAG) review of draft temperature Total Maximum Daily Loads (TMDLs) for the North Fork Coeur d'Alene River Subbasin

Idaho DEQ requested informal comments from the WAG by March 26, 2008. This document summarizes the comments and IDEQ responses. A revised draft of temperature TMDLs is in progress and is expected to be distributed in June 2008 for further WAG review and comment. DEQ then hopes to prepare the plan for public comment and submittal to the US Environmental Protection Agency (EPA) for approval.

The following parties submitted written comments in March 2008:

Kootenai Environmental Alliance – Mike Mihelich
Shoshone County – Jeff Legg
Idaho Department of Lands – Mary Fritz
Fred Brackebusch

Preliminary Response from IDEQ

Thank you very much for your participation and comments!!

The active involvement of North Fork Coeur d'Alene stakeholders only strengthens the work of IDEQ and will help ensure we can successfully implement these water quality plans. DEQ will consider all of your comments and address them in the next draft of Temperature TMDLs for the North Fork Coeur d'Alene Subbasin. This revision is in progress now and the next draft is expected June/July 2008. It will be distributed for WAG review at that time, followed by a formal public comment period before the TMDLs are ultimately completed and submitted to the Environmental Protection Agency.

Your questions, comments and ideas are welcomed throughout the process at any time. Please feel free to contact me.

Kajsa Eagle Stromberg
Watershed Coordinator

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COMMENTS FROM Kootenai Environmental Alliance – Mike Mihelich

Kajsa Stromberg
Idaho Department of Environmental Quality
2110 Ironwood Parkway
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March 13, 2008

Dear Ms. Stromberg:

The following comments are being submitted concerning the DEQ North Fork Coeur d'Alene River Subbasin draft temperature TMDL. Information provided to the WAG indicates the 895 square mile subbasin contains 7 major watersheds and 1,100 miles of streams. Approximately 94% of the subbasin is National Forest System (NFS) lands.

The state and federal laws and regulations cited below pertain to fisheries and temperature issues that apply to areas that include the North Fork Coeur d'Alene River Subbasin. The laws and regulations cited, along with data in the draft TMDL confirm the need for a temperature TMDL.

Idaho Code:

Idaho Code at Section 36-103 includes the following language. "All wildlife, including all wild animals, wild birds, and fish, within the state of Idaho, is hereby declared to be the property of the state of Idaho. It shall be preserved, protected, perpetuated, and managed."

The fish species that are found in the subbasin include westslope cutthroat trout as noted in the Idaho Fish and Game Fishery Research document "Status and Analysis of Salmonid Fisheries Westslope Cutthroat Trout Synopsis and Analysis of Fishery Information", Project F-73R-11, Rieman and Apperson, 1989, 83 p. Concerning temperature issues, the following sentence is found on page 8. "Westslope cutthroat trout seem to be particularly well suited to a relatively sterile and cold environment."

Idaho Code clearly requires fish populations in the North Fork Coeur d'Alene River subbasin are to be preserved, protected and perpetuated.

Idaho Forest Practices Act (FPA) regulations:

The Rules Pertaining to the Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code are described in IDAPA 20 Title 02 Chapter 01. The FPA includes rules that concern stream protection and shade requirements. IDAPA 20.02.01.030.07 at c.ii contains the following regulation. "Leave seventy-five percent (75%) of the current shade over Class 1 streams. Limit re-entry until shade recovers."

There are additional shade requirements described in 030.07 and the FPA also identifies public resources as water and fish. The FPA at 030.08 contains language regarding maintenance of productivity and related values. These related values include protection of water and wildlife, in particular critical wildlife or aquatic habitat.

The FPA at 20.02.01.020.01b indicates practices are to be in compliance with the Stream Protection Act and Idaho WQS.

The FPA Rules, including stream protection and shade clearly apply to the water temperature issues that exist in the subbasin.

Idaho Water Quality Standards:

IDAPA at 58.01.02 describes the state of Idaho Water Quality Standards and Wastewater Treatment Requirements. IDAPA at 58.01.02.050.02a and 02b contain the following language. “Where attainable, surface waters of the state shall be protected for beneficial uses which for surface waters includes all recreational use in and on the water surface and the preservation and propagation of desirable species of aquatic life” and “In all cases, existing beneficial uses of the waters of the state shall be protected.”

IDAPA at 58.01.02.051.01 describes the antidegradation policy with the following language. “The existing in stream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.”

It is apparent Idaho WQS apply to water bodies that are impaired due to temperature problems.

U.S. Forest Service INFISH requirements:

The Idaho Panhandle National Forests (IPNF) Inland Native Fish Strategy (INFISH) regulations are directly relevant to the draft temperature TMDL due to the NFS lands that comprise 94% of the subbasin. The following information regarding INFISH regulations is taken from the January 2008 IPNF Northern Prairie Environmental Assessment (EA) released by the Bonners Ferry Ranger District.

In Chapter 3 of the EA, there are INFISH discussions on pages 3-46 and 3-47. The following language is found on page 3-46. “More stringent requirements for riparian protection have been adopted as Forest Plan amendments. One of the primary amendments to the 1987 Forest Plan is the Inland Native Fish Strategy (INFISH). INFISH requires that riparian habitat conservation areas (RHCAs) be delineated and classified in all forest watersheds (USFS 1995). RHCAs are portions of watersheds where riparian-dependent resources receive primary emphasis, and management activities are subject to specific standards and guidelines.”

On page 3-47 the following statements are made. “INFISH also provides interim riparian management objectives (RMOs) for water temperature and specific fish habitat parameters (USFS 1995)” and “In addition to RHCA standards and interim RMOs, INFISH includes standards and guidelines for specific management activities (USFS 1995). Timber harvest is generally prohibited in RHCAs, unless it follows a catastrophic event resulting in degraded riparian conditions.”

The INFISH regulations include 300-foot (slope distance) protection zones for fish-bearing streams, 150-foot (slope distance) protection zones for permanently flowing (perennial) non-fish bearing streams. There is also a 50-foot (slope distance) protection zone for intermittent streams.

Thank you for the opportunity to comment on the draft temperature TMDL.

Sincerely,

/S/

Mike Mihelich

Forest Watch Coordinator 208-667-9093

Kootenai Environmental Alliance

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COMMENTS FROM Idaho Department of Lands –Mary Fritz

March 25, 2008

Kajsa Eagle Stromberg
Watershed Coordinator
Idaho Department of Environmental Quality
2110 Ironwood Parkway
Coeur d'Alene, Idaho 83814

Dear Kajsa,

RE: Comment on the North Fork of the Coeur d' Alene River Temperature TMDL

The Idaho Department of Lands understands that the true objective of the temperature TMDL's developed using a Potential Natural Vegetation process is to realize a riparian forest in the stream protection zone that is in a relatively "mature" state for a given habitat type. However, the shade/canopy targets in the TMDL are a "best guess" until someone on the ground verifies the data.

It would be best if the ground truth process could be completed and included in the Temperature TMDL. This would provide accurate data for the WAG to develop an implementation plan. Due to time constraints, this may not be an option. If ground truth information cannot be obtained for the temperature TMDL, then the ground truth process should be apart of the implementation phase.

It is important that we look at stream segments that do not meet TMDL shade/canopy cover targets and design appropriate management opportunities.

Thank you for this opportunity to comment.

Sincerely,

Mary Fritz

Mary Fritz
Private Forestry Specialist

April 23, 2008

COMMENTS FROM Shoshone County – Jeff Legg

Kajsa,

Here is the county's comment.

Shoshone County would like the Temperature TMDL Report to recognize the scientific data from the USFS and Idaho Fish and Game that was recently collected be used in conjunction with the data already established within the report.

Jeff Legg

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DEQ Response:

The scientific data from Idaho Department of Fish and Game and the US Forest Service will be recognized, evaluated, and included in water quality assessments and TMDLs as appropriate. This work is in process now. These agencies have conducted valuable work in the North Fork Coeur d'Alene Subbasin. The information gained increases our knowledge and understanding of the ecosystems and will make our water quality efforts stronger.

COMMENTS FROM Fred Brackebusch

Kajsa:

Following are my comments plus see 3 attached documents:

1. The optimum temperature for cutthroat growth according to Bear et al is 13.6 deg C with 90% upper confidence limit of 17 deg C. The optimum growth temp for rainbow is 15 deg C according to the trout farming guide attached.
2. At constant temps above 20 deg C, according to Bear et al, cutthroat start to die. Bear et al recommend 20 deg C as the standard: "whereas maximum daily stream temperatures below 20 deg C would be adequate to maintain survival of westslope cutthroat trout." The work by Bear et al appears to be correct with respect to the North Fork since we have a good cutthroat trout population and have higher temps than the 13 deg standard now being used.
3. If we used the 20 deg C as the standard upper limit for temp, it looks like a lot of "impaired" streams would be removed from the list. The 20 deg upper limit would be protective because temps decrease at night and there are cold water refugia that fish take advantage of in the river environment.
4. Fish spawn before water warms up in the summer so temp does not appear to be an issue for spawning in the North Fork.
5. See attached photo of Merganser duck choking on a 13 inch cutthroat. Photo was taken on Ferguson ranch near Big Hank. Control of Merganser duck population looks like a good method to increase trout population.
6. The predominant beneficial use of the North Fork in the summer from Shoshone creek downstream is floating [swimming]. Since warm water is necessary for this beneficial use, it should be considered in the temp TMDL process and it appears to be improperly ignored.
7. There are other, more abundant, fish in the North Fork including northern pike minnow, whitefish, and shiner which undoubtedly need higher temps than cutthroat for optimum growth.
8. Cutthroat grow very slowly because of cold water much of the year and because of a limited food supply.

Fred Brackebusch



Also includes two reference documents:

Bear, Beth A., Thomas E McMahon, and A.V. Zale. 2005. Thermal Requirements of Westslope Cutthroat Trout. Final Report to the Wild Fish Habitat Initiative, Montana Water Center at Montana State University. Bozeman, MT. January 2005.

Klontz, George W. 1991. Manual for Rainbow Trout Production on the Family-Owned Farm. Nelson and Sons, Inc. Murray, Utah.