E. coli Bacteria TMDL for the Des Lacs River in Ward, Mountrail, and Renville Counties, North Dakota

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1.0 INTRODUCTION AND DESCRIPTION OF THE WATERSHED

The Des Lacs River watershed (8 digit hydrologic unit code 09010002) is a 662,735 acre watershed located in Ward, Burke, Mountrail, and Renville Counties in northwestern North Dakota, with a small portion in Saskatchewan, Canada. The impaired stream reach and that portion of the watershed included in this TMDL is located in Ward, Mountrail, and Renville Counties and comprises approximately 223,209 acres (Table 1, Figure 1). The listed segment lies primarily within the Northern Glaciated Plains Level III Ecoregion, with some small part extending into the Northwestern Glaciated Plains Level III Ecoregion. Just upstream of this impaired reach is the Des Lacs National Wildlife Refuge and Lower Des Lacs Reservoir, which are operated and maintained by the U.S. Fish and Wildlife Service (Figure 2).

Table 1. General Characteristics of the Des Lacs River Watershed.

Legal Name	Des Lacs River
Stream Classification	Class II
Major Drainage Basin	Souris River
8-Digit Hydrologic Unit	09010002
Counties	Ward, Mountrail, and Renville Counties
Level III Ecoregion	Northern Glaciated Plains (46), Northwestern Glaciated Plains (42)
8 digit HUC Watershed Area (in U.S)	662,735 acres
Impaired Reach Watershed Area	223,209 acres

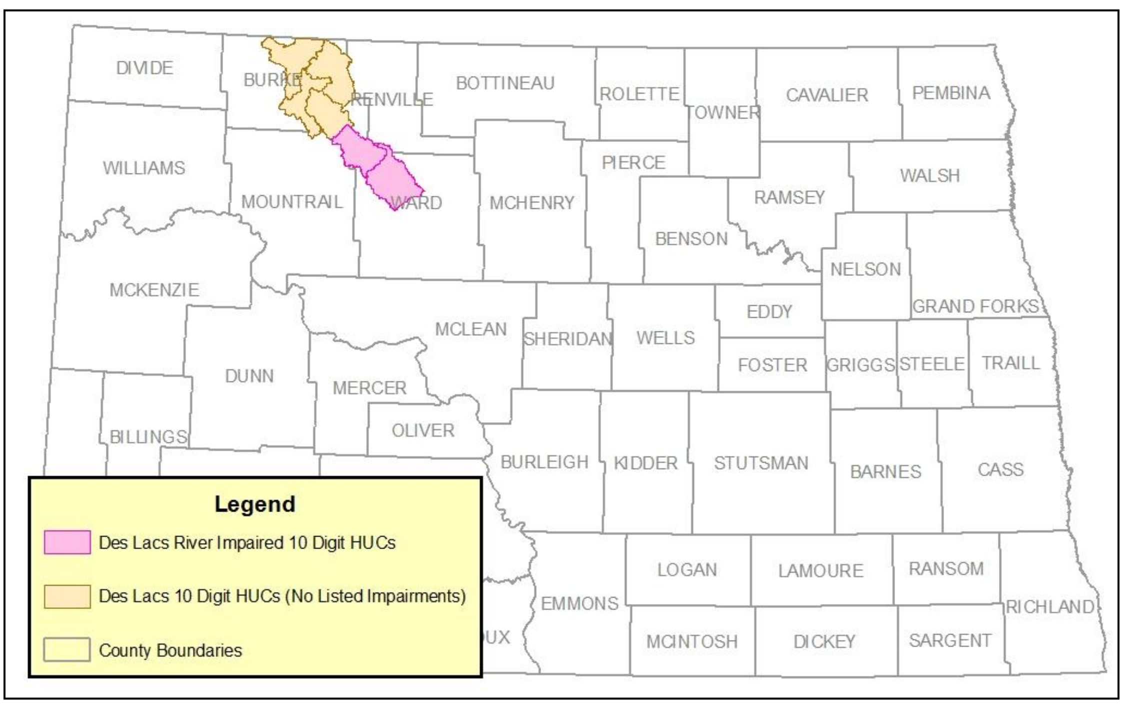

Figure 1. Des Lacs River Watershed in North Dakota.

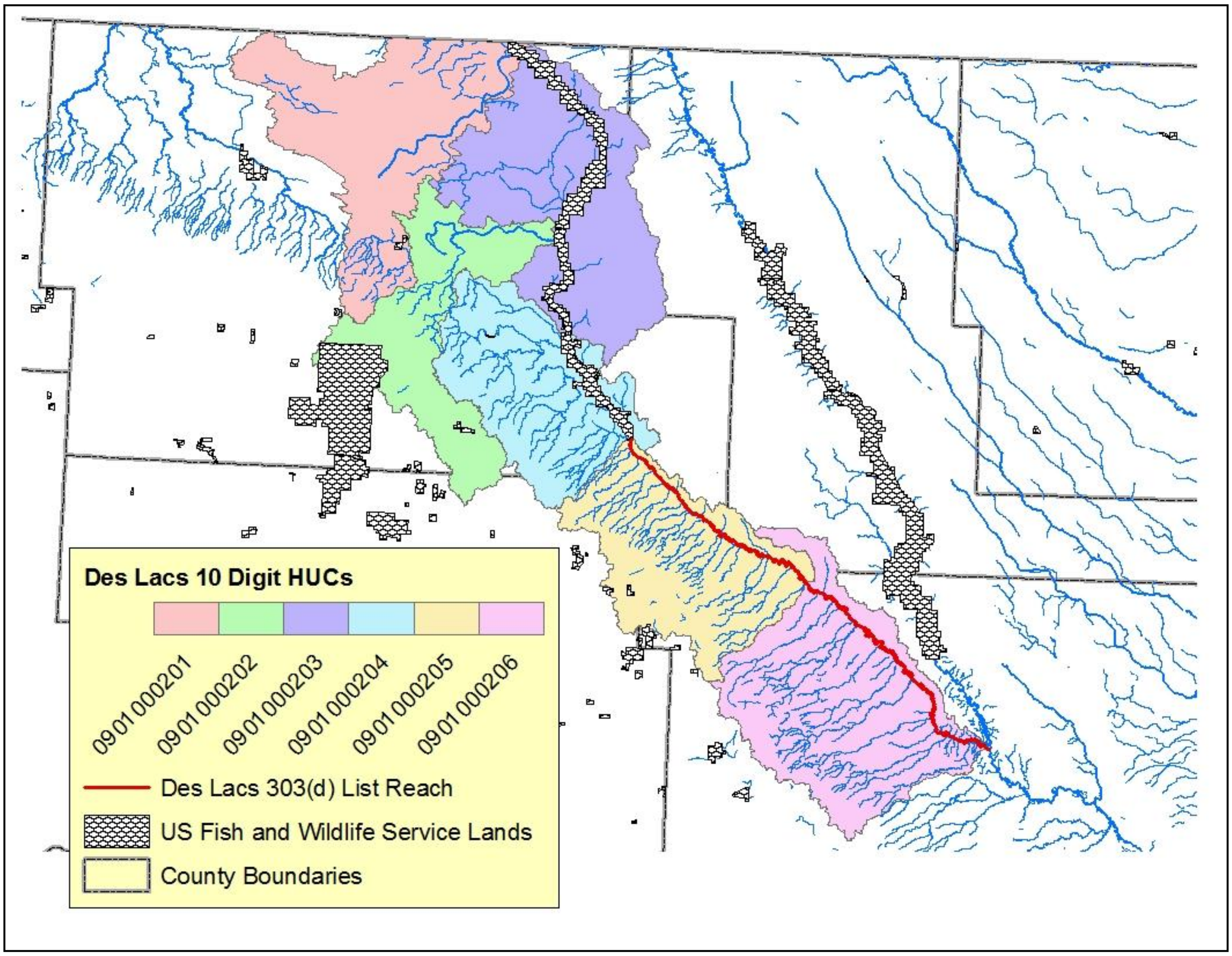

Figure 2. Des Lacs River TMDL Listed Segment.

1.1 Clean Water Act Section 303(d) Listing Information

Based on the 2010 Section 303 (d) List of Impaired Waters Needing TMDLs (NDDoH, 2010), the North Dakota Department of Health (NDDoH) has identified a 71.5 mile segment (ND-09010002-001-S_00) of the Des Lacs River upstream from its confluence with the Souris River to the Lower Des Lacs reservoir (Figure 2) as fully supporting but threatened for recreational uses. The impairments are due to fecal coliform bacteria (Table 2).

The Des Lacs River was originally listed for fecal coliform bacteria impairment. The State's fecal coliform bacteria water quality standard was eliminated in 2011 and replaced with an E. coli bacteria water quality standard. Therefore, the TMDL for the Des Lacs River will be written based on the new E. coli bacteria water quality standard (Table 4). Please refer to Section 2.2 for more information regarding the bacteria water quality standards change.

Table 2. Des Lacs River Section 303(d) Listing Information for Assessment Unit ID ND-09010002-001-S_00 (NDDoH, 2010).

Assessment Unit ID	ND-09010002-001-S_00
Waterbody Description	Des Lacs River from Lower Des Lacs Reservoir downstream to its confluence with the Souris River.
Size	71.5 miles
Designated Use	Recreation
Use Support	Fully Supporting, but Threatened
Impairment	Fecal Coliform Bacteria
TMDL Priority	High

1.2 Ecoregions

The watershed for the Section 303(d) listed segment highlighted in this TMDL lies primarily within the Northern Black Prairie (46g) level IV ecoregion, with small portions occurring within the Northern Dark Brown Prairie (46h), Drift Plains (46i), Missouri Coteau (42a) and Northern Missouri Coteau (42d) level IV ecoregions (Figure 3). The Northern Black Prairie (46g) ecoregion represents a broad phenological transition zone marking the introduction from the north of a boreal influence in climate. Aspen and birch appear in wooded areas, willows grow on wetland perimeters, and rough fescue becomes evident in grassland associations. This ecoregion has the shortest growing season and the lowest January temperature of any level IV ecoregion in the Dakotas. Most of the area is used for growing small grains, with durum wheat being a major crop. The Northern Dark Brown Prairie (46h) is divided from the Northern Black Prairie (46g) by the Souris and Des Lacs Rivers. This area is a broad transitional zone between subhumid and semiarid climatic conditions. Soils west of the rivers developed under drier conditions than those soils further east. They have less organic material which gives them a lighter color. In addition, crop and native grass production is generally lower than in ecoregions further east. The Drift Plains (46i) ecoregion was formed by the retreating Wisconsinan glacier that left a thick mantle of glacial till. The landscape consists of temporary and seasonal wetlands. Due to the productive soil of this ecoregion almost all of the area is under cultivation. The rolling hummocks of the Missouri Coteau (42a) ecoregion enclose countless wetland depressions or potholes. Land use on the Coteau is a mixture of tilled agriculture in flatter areas and grazing land on steeper slopes. The Northern Missouri Coteau (42d) lies in a transition zone to a more boreal climate to the north and a more arid climate to the west. Wetlands tend to dry out earlier in the summer than on the Missouri Coteau (42a) to the south and east. Mixed dryland agriculture is the major land use. The Coteau is the major waterfowl production area in North America (USGS, 2006).

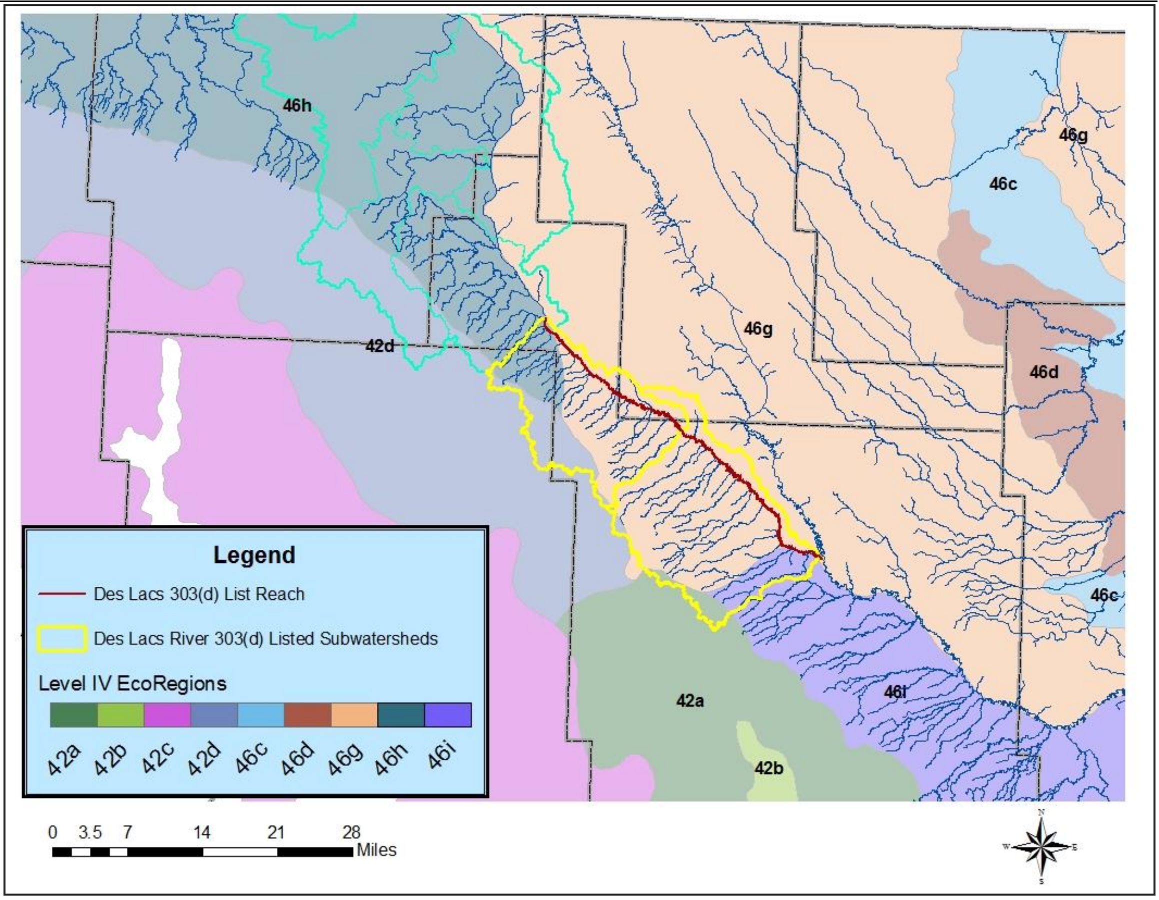

Figure 3. Level IV Ecoregions in the Des Lacs River TMDL Listed Watershed.

1.3 Land Use

The dominant land use in the Des Lacs River watershed is small grain agriculture. According to the 2007 National Agricultural Statistical Service land survey data (NASS, 2007), approximately 71 percent of the land is cropland; 14 percent in grassland, pasture, or Conservation Reserve Program (CRP); 10 percent in wetlands; and the remaining 5 percent as either developed space or barren. The majority of the crops grown consist of durum/spring wheat, winter wheat, sunflowers, and oil seeds (Figure 4).

There are a few permitted animal feeding operations (AFOs) in the watershed. They consist of one medium AFO which has zero discharge, and two small AFOs which are dairy operations and have zero discharge. One more small AFO is currently undergoing the permitting process. Unpermitted animal feeding operations are also present in the Des Lacs River watershed, but their number and location have not be documented.

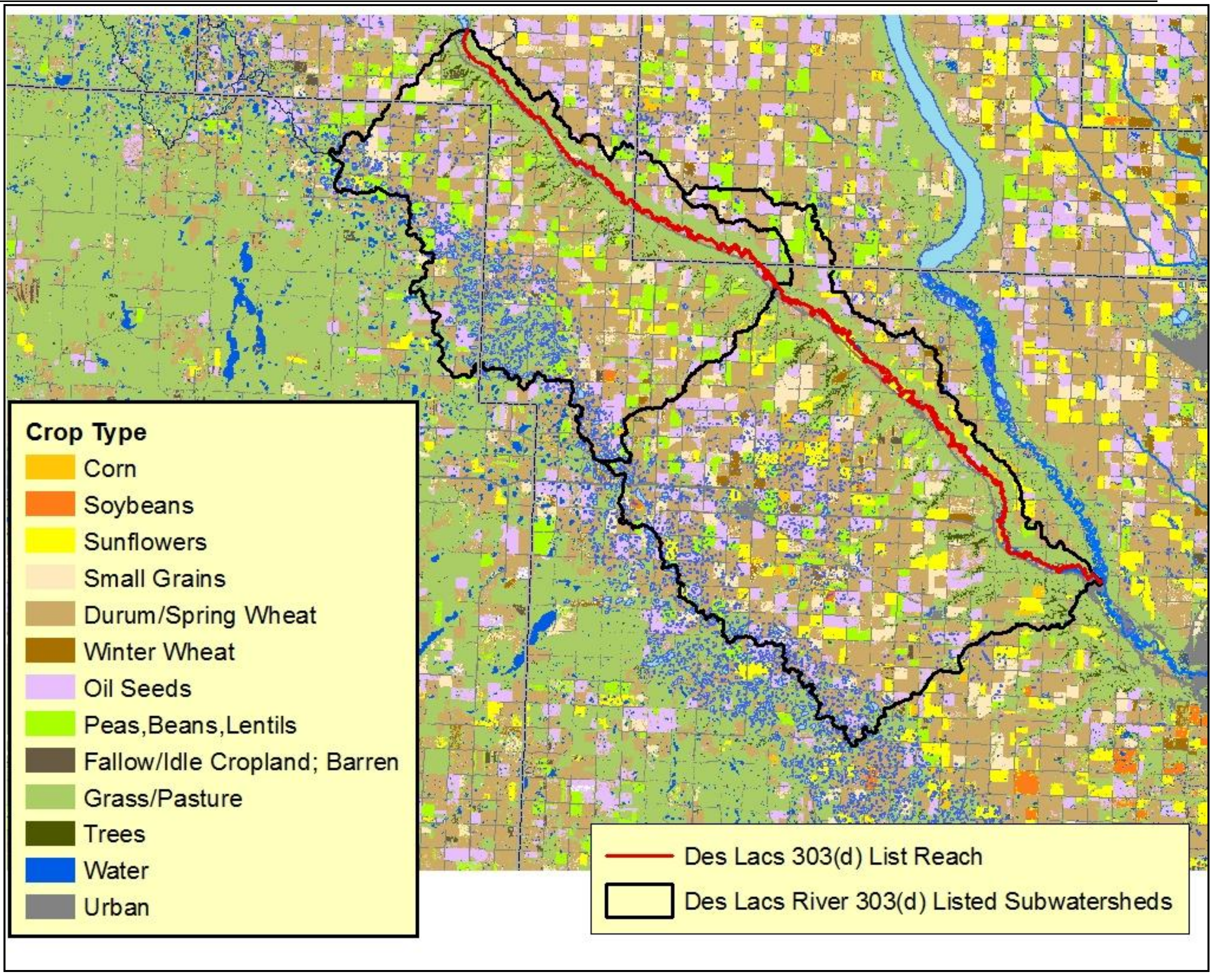

Figure 4. Land Use in the Des Lacs River TMDL Listed Watershed (NASS, 2007).

1.4 Climate and Precipitation

North Dakota's climate is characterized by large temperature variations across all time scales, light to moderate irregular precipitation, plentiful sunshine, low humidity, and nearly continuous wind. Its location at the geographic center of North America results in a strong continental climate, which is exacerbated by the mountains to the west. There are no topographical barriers to the north or south so a combination of cold dry air masses originating in the far north and warm humid air masses originating in the tropical regions regularly flow over the state. Movement of these air masses and their associated fronts cause near continuous wind and often result in large day to day temperature fluctuations in all seasons. The average last freeze in spring occurs in late May. In the fall, the first 32 degree or lower temperature occurs between September 10th and 25th. However, freezing temperatures have occurred as late as mid-June and as early as mid-August.

About 75 percent of the annual precipitation falls during the period of April to September, with 50 to 60 percent occurring between April and July. Most of the summer rainfall is produced during thunderstorms, which occur on an average of 25 to 35 days per year. On the average, rains occur once every three to four days during the summer. Winter snowpack, although persistent from December through March, only averages around 15 inches (Enz, 2003).

Figures 5 and 6 show the yearly total and normal monthly precipitation at the Berthold, ND (Ward County) North Dakota Agriculture Weather Network (NDAWN) station from 2001-2010. This weather station is located approximately eight miles southwest of the lower end of the impaired reach.

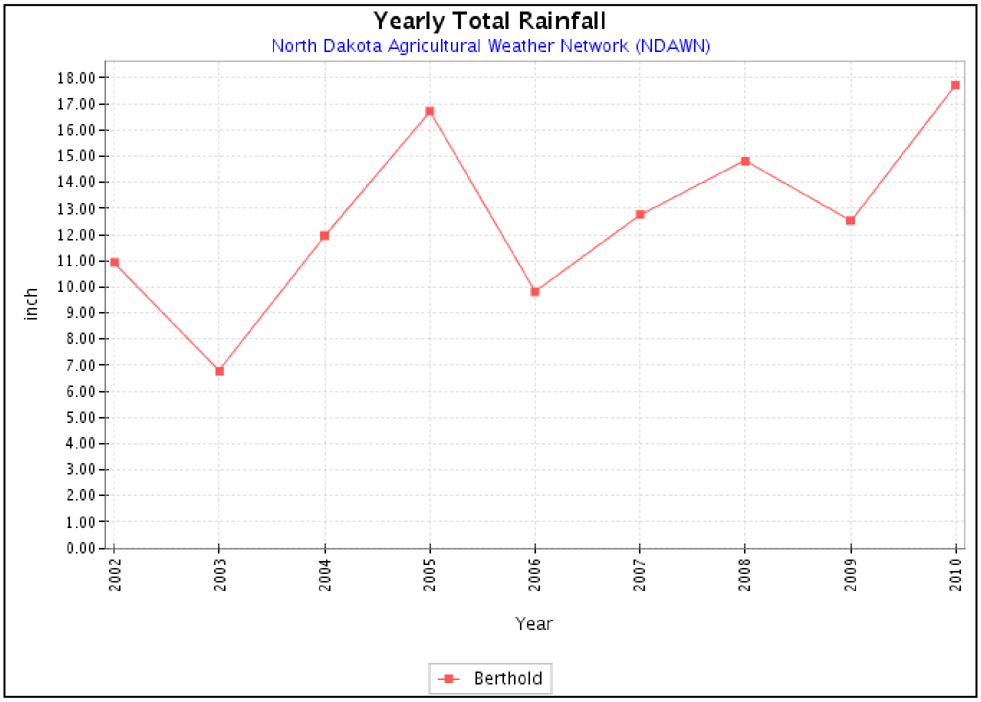

Figure 5. Yearly Total Rainfall at Berthold, North Dakota from 2001-2010. North Dakota Agricultural Weather Network (NDAWN).

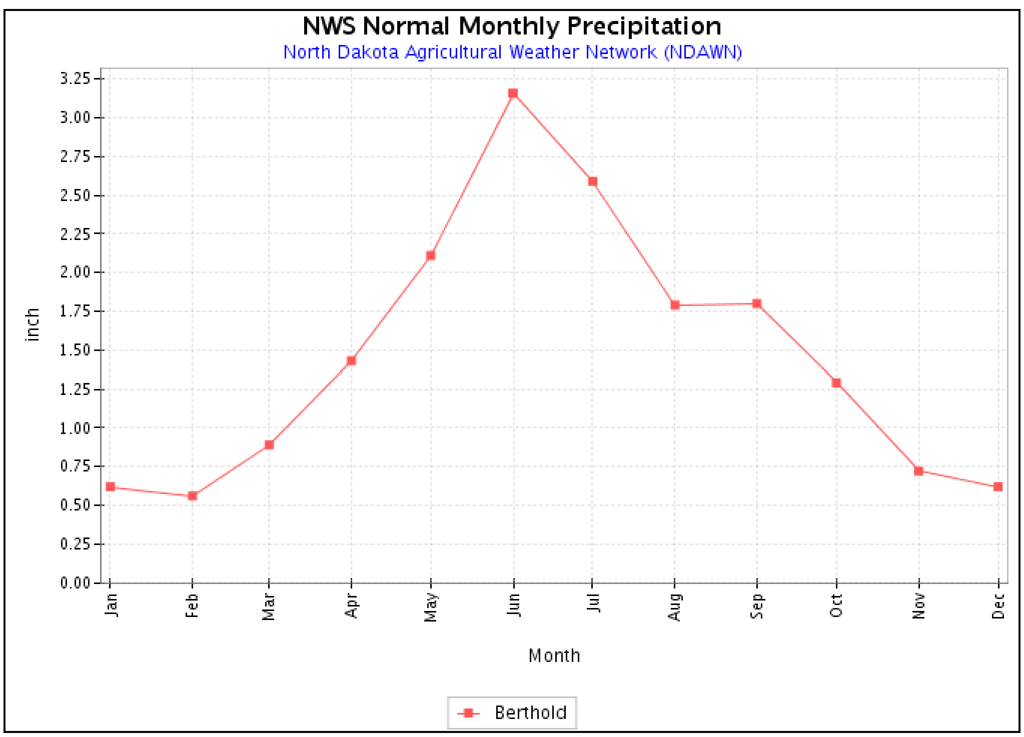

Figure 6. Normal Monthly Precipitation at Berthold, North Dakota from 2001-2010. North Dakota Agricultural Weather Network (NDAWN).

1.5 Available Data

1.5.1 E. coli Bacteria Data

E. coli bacteria samples were collected at one monitoring site located on the TMDL listed stream segment (Figure 7). This monitoring site, station ID 380021, is located 0.1 mile north of Foxholm, ND. This site is part of the NDDoH's Ambient Water Quality Monitoring Program network and is sampled every six weeks during the open water flow period and once during ice cover (NDDoH, 2009). Samples are collected by personnel with the NDDoH's Surface Water Quality Management Program.

Table 3 provides a summary of E. coli geometric mean concentrations, the percentage of samples exceeding 409 CFU/100mL for each month, and the recreational use assessment by month. The geometric mean E. coli bacteria concentration and the percent of samples over 409 CFU/100ml was calculated for each month (May-September) using those samples collected during each month from 2001 through 2010.

Table 3. Summary of E. coli Bacteria Data for Site 380021 (data collected from 2001 to 2010).

Month	N	Geometric Mean Concentration (CFU/100mL)	Percentage of Samples Exceeding 409 CFU/100mL	Recreational Use Assessment
May	8	16.3	0%	Fully Supporting
June	8	118.1	12.5%	Fully Supporting, but Threatened
July	7	35.4	14.3%	Fully Supporting, but Threatened
August	5	83.6	20.0%	Fully Supporting, but Threatened
September	8	92.3	12.5%	Fully Supporting, but Threatened

According to the data collected in 2001 and 2010 geometric mean and percent exceeded calculations determined that during the months of June through September the TMDL Listed Segment of the Des Lacs Rice River is fully supporting, but threatened for recreational beneficial use because of E. coli bacteria. E. coli bacteria data is presented in Appendix A.

1.5.2 Hydraulic Discharge

A discharge record was constructed for the listed segment using data from United States Geological Survey (USGS) gauging station 05116550 which is co-located with NDDoH sampling station 380021. The historical daily discharge record for the period 1980-2010 was used for this TMDL.

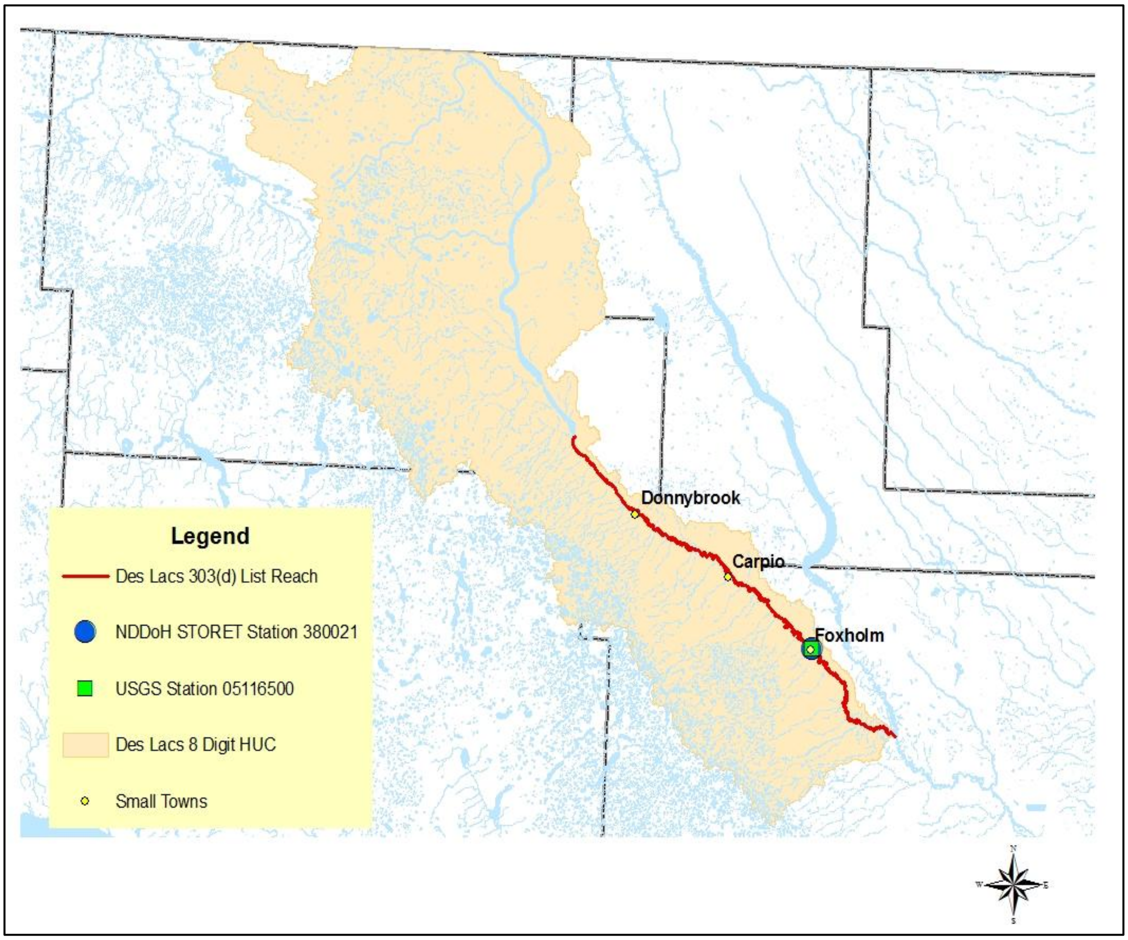

Figure 7. E. coli Bacteria Sample Site 380021 and USGS Gauge Station 05116550 Located on the Des Lacs River.

2.0 WATER QUALITY STANDARDS

The Clean Water Act requires that Total Maximum Daily Loads (TMDLs) be developed for waters on a state's Section 303(d) list. A TMDL is defined as "the sum of the individual wasteload allocations for point sources and load allocations for non point sources and natural background" such that the capacity of the waterbody to assimilate pollutant loadings is not exceeded. The purpose of a TMDL is to identify the pollutant load reductions or other actions that should be taken so that impaired waters will be able to attain water quality standards. TMDLs are required to be developed with seasonal variations and must include a margin of safety that addresses the uncertainty in the analysis. Separate TMDLs are required to address each pollutant or cause of impairment.

2.1 Narrative North Dakota Water Quality Standards

The North Dakota Department of Health has set narrative water quality standards that apply to all surface waters in the State. The narrative general water quality standards are listed below (NDDoH, 2011).

- All waters of the State shall be free from substances attributable to municipal, industrial, or other discharges or agricultural practices in concentrations or combinations that are toxic or harmful to humans, animals, plants, or resident aquatic biota.

- No discharge of pollutants, which alone or in combination with other substances shall:
  a. Cause a public health hazard or injury to environmental resources;
  b. Impair existing or reasonable beneficial uses of the receiving water; or
  c. Directly or indirectly cause concentrations of pollutants to exceed applicable standards of the receiving waters.

In addition to the narrative standards, the NDDoH has set a biological goal for all surface waters in the state. The goal states "the biological condition of surface waters shall be similar to that of sites or waterbodies determined by the department to be regional reference sites" (NDDoH, 2011).

2.2 Numeric North Dakota Water Quality Standards

The Des Lacs River is a Class II stream. The NDDoH definition of a Class II stream is shown below (NDDoH, 2011).

Class II- The quality of the waters in this class shall be the same as the quality of class I streams, except that additional treatment may be required to meet the drinking water requirements of the department. Streams in this classification may be intermittent in nature which would make these waters of limited value for beneficial uses such as municipal water, fish life, irrigation, bathing, or swimming.

Effective January 2011, the NDDoH revised the State water quality standards. In these latest revisions the NDDoH eliminated the fecal coliform bacteria standard, retaining only the E. coli bacteria standard for the protection of recreational uses. This change in water quality standard was recommended by the US Environmental Protection Agency as E. coli is believed to be a better indicator of recreational use risk (i.e., incidence of gastrointestinal disease).

Table 4 provides a summary of the current numeric E. coli criteria which applies to Class II streams. The E. coli bacteria standard applies only during the recreation season of May 1 through September 30.

Table 4. North Dakota E. coli Bacteria Water Quality Standards for Class II Streams.

Parameter	Standard	
	Geometric Mean[1]	Maximum[2]
E. coli Bacteria	126 CFU/100 mL	409 CFU/100 mL

[1] Expressed as a geometric mean of representative samples collected during any consecutive 30-day period.
[2] No more than 10 percent of samples collected during any consecutive 30-day period shall individually exceed the standard.

3.0 TMDL TARGETS

A TMDL target is the value that is measured to judge the success of the TMDL effort. TMDL targets must be based on state water quality standards, but can also include site specific values when no numeric criteria are specified in the standard. The following TMDL target for the Des Lacs River is based on the NDDoH water quality standard for E. coli bacteria.

3.1 Des Lacs River Target Reductions in E. coli Bacteria Concentrations

The Des Lacs River is impaired because of E. coli bacteria. The Des Lacs River recreation beneficial use is identified as fully supporting, but threatened because E. coli bacteria counts exceed the State water quality standard. The State water quality standard for E. coli bacteria is a geometric mean concentration of 126 CFU/100 mL during the recreation season of May 1st through September 30th. Thus, the TMDL target for this report is 126 CFU/100 mL. In addition, no more than ten percent of samples collected for E. coli bacteria should exceed 409 CFU/100 mL.

While the standard is intended to be expressed as the 30-day geometric mean, the target is based on the 126 CFU/100 mL geometric mean standard. Expressing the target in this way will ensure the TMDL will result in both components of the standard being met and recreational uses will be restored.

4.0 SIGNIFICANT SOURCES

4.1 Point Source Pollution Sources

Within the watershed of the TMDL listed reach of the Des Lacs River there are two wastewater treatment systems permitted through the North Dakota Pollution Elimination System (NDPDES) Program. They are for the communities of Carpio and Donnybrook, North Dakota (Figure 7). Each system is allowed to discharge on an “as needed” basis. When these facilities do discharge they do so only once per year. However, the Carpio facility has not discharged in over 20 years and the Donnybrook facility has not discharged in the last 13 years (Appendix D). No fecal or E.coli bacteria monitoring is required in any of the NDPDES permits, so currently only one sample was taken at Donnybrook in 1998, and none at Carpio. Due to the limited bacteria data, allocations were derived using the State’s water quality standard and are explained in Section 5.4. The town of Foxholm is also within the impaired reach’s contributing watershed. This community has no permitted wastewater treatment system. Residents in this community utilize individual septic systems.

There are three permitted animal feeding operations (AFOs) in the TMDL listed watershed. The NDDoH has permitted one medium (301-999 animal units [Aus]) and three small (300 AUs or less) AFOs, which are all zero discharge facilities and are not deemed a significant point source of E. coli bacteria loadings to the Des Lacs River. The one small AFO currently in the permitting process will also be a zero discharge facility.

4.2 Nonpoint Source Pollution Sources

The E. coli bacteria pollution to this segment is originating from nonpoint sources in the watershed. Unpermitted animal feeding operations (AFOs) and livestock grazing and watering in proximity to the Des Lacs River are common along the TMDL listed segment.

The northwest area of North Dakota typically experiences short duration but intense precipitation during the spring and early summer months. These storms can cause overland flooding and rising river levels. Due to the close proximity of livestock grazing and watering to the river (grassland areas on the land use map, Figure 4), it is likely that they contribute to the E. coli bacteria pollution in this listed segment of the Des Lacs River.

These assessments are supported by the load duration curve analysis (Section 5.3) which shows all of the exceedences of the E. coli bacteria standard occurring during high, moist and dry conditions.

Wildlife may also contribute to the E. coli bacteria found in the water quality samples. A US Fish and Wildlife Service Wildlife Refuge is located immediately upstream of the listed segment and is managed primarily for the production of waterfowl. However, little can be done to reduce the effects of a migratory wildlife population, so the majority of conservation practices will be focused on human induced impairments.

Septic system failure might also contribute to the E. coli bacteria in the water quality samples. Failures can occur for several reasons, although the most common reason is improper maintenance (e.g. age, inadequate pumping). Other reasons for failure include improper installation, location, and choice of system. Harmful household chemicals can also cause failure by killing the bacteria that digest the waste. While the number of systems that are not functioning properly is unknown, it is estimated that 28 percent of the systems in North Dakota are failing (USEPA, 2002).

5.0 TECHNICAL ANALYSIS

In TMDL development, the goal is to define the linkage between the water quality target and the identified source or sources of the pollutant (i.e. E. coli bacteria) to determine the load reduction needed to meet the TMDL target. To establish the cause and effect relationship between the water quality target and the identified source, the “load duration curve” methodology was used.

The loading capacity or total maximum daily load (TMDL) is the amount of a pollutant (e.g. E. coli bacteria) a waterbody can receive and still meet and maintain water quality standards and beneficial uses. The following technical analysis addresses the E. coli bacteria reductions necessary to achieve the water quality standards target for E. coli bacteria of 126 CFU/100 mL with a margin of safety.

5.1 Mean Daily Stream Flow

In northwestern North Dakota, rain events are variable generally occurring during the months of April through August. Rain events can be sporadic and heavy or light, occurring over a short duration. Precipitation events of large magnitude, occurring at a faster rate than absorption, contribute to high runoff events. These events are represented by runoff in the high flow regime. The medium flow regime is represented by runoff that contributes to the stream over a longer duration. The low flow regime is characteristic of drought or precipitation events of small magnitude and do not contribute to runoff.

Flows for the watershed were obtained for gauging station 05116550 from the USGS Water Science Center website. This gauging station is co-located with the NDDoH sampling station 380021.

5.2 Flow Duration Curve Analysis

The flow duration curve serves as the foundation for the load duration curve used in the TMDL. Flow duration curve analysis looks at the cumulative frequency of historic flow data over a specified time period. A flow duration curve relates flow (expressed as mean daily discharge) to the percent of time those mean daily flow values have been met or exceeded. The use of *"percent of time exceeded"* (i.e., duration) provides a uniform scale ranging from 0 to 100 percent, thus accounting for the full range of stream flows for the period of record. Low flows are exceeded most of the time, while flood flows are exceeded infrequently (USEPA, 2007).

A basic flow duration curve runs from high to low (0 to 100 percent) along the x-axis with the corresponding flow value on the y-axis (Figure 8). Using this approach, flow duration intervals are expressed as a percentage, with zero corresponding to the highest flows in the record (i.e., flood conditions) and 100 to the lowest flows in the record (i.e., drought). Therefore, as depicted in Figure 8, a flow duration interval of 25 percent, associated with a stream flow of 10 cfs, implies that 25 percent of all observed mean daily discharge values equal or exceed 10 cfs.

Once the flow duration curve is developed for the stream site, flow duration intervals can be defined which can be used as a general indicator of hydrologic condition (i.e. wet vs dry conditions and to what degree). These intervals (or zones) provide additional insight about conditions and patterns associated with the impairment (E. coli bacteria in this case) (USEPA, 2007). The flow duration curve (Fig. 8) was divided into four zones, one representing high flows (0-12 percent), another for moist conditions (12-46 percent), one for dry conditions (46-80 percent) and one for low flows (80-93 percent). Based on the flow duration curve analysis, no flow occurred seven percent of the time.

These flows intervals were defined by examining the range of flows for the site for the period of record and then by looking for natural breaks in the flow record based on the flow duration curve plot. A secondary factor in determining the flow intervals used in the analysis is the number of E. coli bacteria observations available for each flow interval.

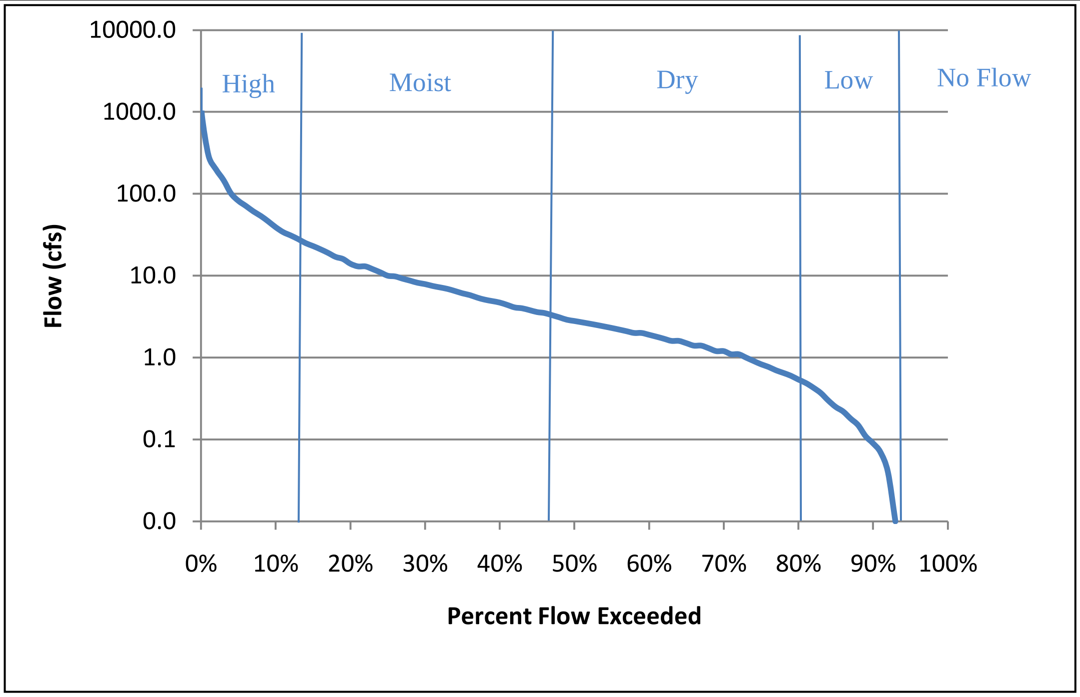

Figure 8. Flow Duration Curve for the Des Lacs River Monitoring Station 380021.

5.3 Load Duration Analysis

An important factor in determining NPS pollution loads is variability in stream flows and loads associated with high and low flow. To better correlate the relationship between the pollutant of concern and the hydrology of the Section 303(d) TMDL listed segments, a load duration curve was developed for the Des Lacs River impaired stream reach. The load duration curve for the TMDL listed reach was derived using the E. coli bacteria TMDL target of 126 CFU/100 mL and the flows generated as described in Sections 5.1 and 5.2.

Observed in-stream E. coli bacteria data obtained from monitoring site 380021 (Appendix A) were converted to a pollutant load by multiplying E. coli bacteria concentrations by the mean daily flow and a conversion factor. These loads are plotted against the percent exceeded of the flow on the day of sample collection (Figure 9). Points plotted above the 126 CFU/100 mL target curve exceed the State water quality standard or TMDL target. Points plotted below the curve are meeting the State water quality standard of 126 CFU/100 mL.

For each flow interval or zone, a regression relationship was developed between the samples which occur above the TMDL target (126 CFU/100 mL) curve and the corresponding percent exceeded flow. The load duration curve for site 380021 depicting a regression relationship for each flow interval is provided in Figure 9. There was only one E. coli bacteria sample concentration above the TMDL target in the low flow regime for site 380021, therefore a regression relationship and existing load could not be calculated for this flow regime.

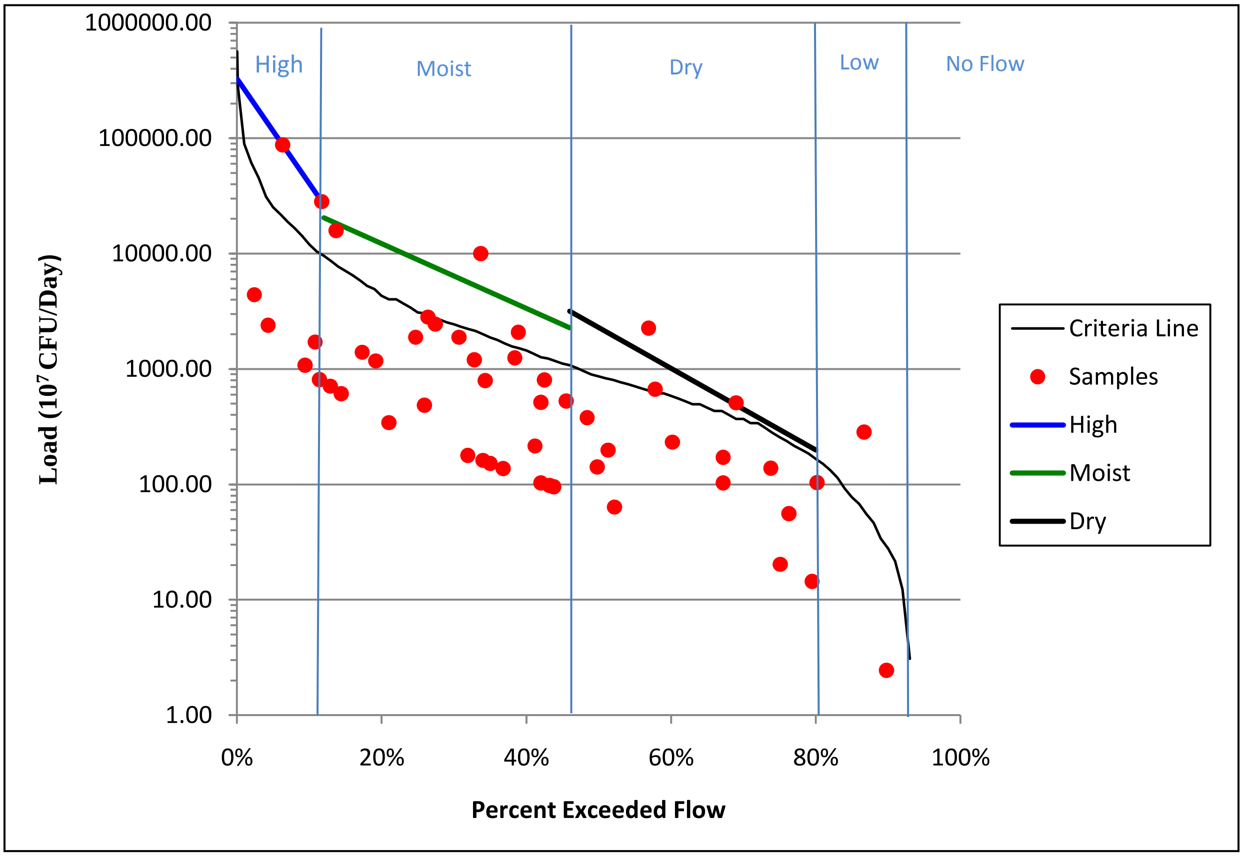

Figure 9. E. coli Bacteria Load Duration Curve for the Des Lacs River Monitoring Station 380021. The curve reflects flows collected from 1980-2010.

The regression lines for the high, moist, and dry condition flows for site 380021 were then used with the midpoint of the percent exceeded flow for that interval to calculate the existing E. coli bacteria load for that flow interval. The following equation is used by the load duration curve model to determine existing load:

E. coli bacteria load (10^7 CFUs/day) for each flow interval

= antilog (Regression Line Intercept + (Regression Line Slope*Midpoint of Exceeded Flow))

Table 5 below provides a summary of the data used with the above equation to determine the existing loads for each flow interval.

Table 5. Summary of Data Used to Determine Existing E. coli Load Based on Flow Interval.

Interval	Regression Line Intercept	Regression Line Slope	Midpoint of Exceeded Flow	Existing Load
High	5.51437	-9.09660	6.0%	93,019
Moist	4.64601	-2.80394	29.0%	6,806
Dry	5.12580	-3.53383	63.0%	793

The midpoint for the flow intervals is also used to estimate the TMDL target load. Therefore, the TMDL target load for the midpoints of 6, 29, and 63 percent exceeded flow derived from the 126 CFU/100 mL TMDL target curves are 21,890 x 10^7 CFUs/day, 2,528 x 10^7 CFUs/day, and 493 x 10^7 CFUs/day, respectively.

5.4 Wasteload Allocation Analysis

There are three small towns (population less than 200) located along the impaired reach of Des Lacs River. Foxholm has no wastewater treatment system. Residents there utilize individual septic systems. Both Donnybrook and Carpio have permitted wastewater treatment systems, though they rarely discharge into the Des Lacs River. However, significant population increases are occurring in towns nearby due to the oil boom associated with the Bakken formation in western North Dakota, so it was determined that E. coli bacteria waste load allocations should be provided to these two systems to accommodate the potential increases in population. These wasteload allocations will be used to set effluent limits in future NDPDES permits. At such a time as wastewater treatment systems are improved, expanded, or added to the impaired reach's contributing watershed, the TMDL will be revisited to determine if any changes are needed in the wasteload allocations.

5.4.1 Donnybrook, ND Wastewater Treatment System

Donnybrook is a town located along the Des Lacs River with a reported population of 83 people in 2009. According to the NDPDES permit for the Donnybrook facility, it is allowed to discharge on an "as needed basis." The Discharge Monitoring Report (DMR) indicates this wastewater treatment system only discharges once per year when it needs to discharge. There have been no reported discharges for the last 13 years (Appendix D). Based on the DMR data, when the system discharges it discharges 0.5 million gallons of treated wastewater over an average of five days. This is equal to 100,000 gallons per day. Since no E. coli bacteria data were collected for this site, the system is assigned the water quality standards value of 126 CFU/100mL for this TMDL.

The wasteload allocation for Donnybrook was determined by taking the average daily discharge and multiplying by the assumed E. coli bacteria maximum concentration of 126 CFU/100 mL, times appropriate conversion factors.

WLA = 0.1 million gallons/day * 126 CFUs/100mL

= 100,000 gallons/day * 3.7854L/gal * 1,000 mL/L * 126 CFUs/100mL

= 47.696 x 10^7 CFUs/day

This was rounded to 48 x 10^7 CFUs/day for the purposes of this TMDL.

5.4.2 Carpio, ND Wastewater Treatment System

Carpio is also a town located along the impaired reach of the Des Lacs River with a reported population of 148 in 2009. According to the NDPDES permit for the Carpio facility, it is allowed to discharge on an "as needed basis." Based on the DMR data for this facility, this wastewater treatment system has not discharged in the past twenty years. There are also no fecal coliform or E. coli bacteria data on record for this system. Because this small town is considered comparable in size to Donnybrook, the same wasteload allocation of 48 x 10^7 CFUs/day was given to this system.

5.5 Loading Sources

The load reduction needed for the listed segment of the Des Lacs River E. coli bacteria TMDL can primarily be allotted to nonpoint sources, with the two point sources mentioned in Section 5.4 given a very small portion of the TMDL. Based on the data available, the general focus of BMPs and load reductions for the listed waterbody should be on unpermitted animal feeding operations and riparian grazing adjacent to or in close proximity to the river.

Controllable sources of E. coli bacteria loading were defined as nonpoint source pollution originating from livestock. One of the more important concerns regarding nonpoint sources is variability in stream flows. Variable stream flows often cause different source areas and loading mechanisms to dominate (Cleland, 2003). As previously described, three flow regimes (i.e., High, Moist, and Dry Conditions) were selected to represent the hydrology of the listed segment on the Des Lacs River for the purpose of the TMDL. The three flow regimes were used in conjunction with water quality data for site 380021 because samples indicated exceedences of the E. coli water quality standard during these flows.

By relating runoff characteristics to each flow regime one can infer which sources are most likely to contribute to coliform bacteria loading. Animals grazing in the riparian area contribute coliform bacteria by depositing manure where it has an immediate impact on water quality. Due to the close proximity of manure to the stream or by direct deposition in the stream, riparian grazing impacts water quality at high, medium (moist and dry conditions on flow duration curve) and low flows (Table 6). In contrast, intensive grazing of livestock in the upland and not in the riparian area has a high potential to impact water quality primarily at high flows (Table 6). Exclusion of livestock from the riparian area eliminates the potential of direct manure deposit and therefore is considered to be of high importance at all flows. However, intensive grazing in the upland creates the potential for manure accumulation and availability for runoff at high flows and a high potential for coliform bacteria contamination.

Table 6. Nonpoint Sources of Pollution and Their Potential to Pollute at a Given Flow Regime.

NonpointSources	Flow Regime		
	High Flow	Medium Flow	Low Flow
Riparian Area Grazing (Livestock)	H	H	H
Animal Feeding Operations	H	M	L
Manure Application to Crop and Range Land	H	M	L
Intensive Upland Grazing (Livestock)	H	M	L

Note: Potential importance of nonpoint source area to contribute coliform bacteria loads under a given flow regime. (H: High; M: Medium; L: Low)

6.0 MARGIN OF SAFETY AND SEASONALITY

6.1 Margin of Safety

Section 303(d) of the Clean Water Act and the U.S. Environmental Protection Agency (EPA) regulations require that "TMDLs shall be established at levels necessary to attain and maintain the applicable narrative and numerical water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality." The margin of safety (MOS) can be either incorporated into conservative assumptions used to develop the TMDL (implicit) or added to a separate component of the TMDL (explicit).

To account for the uncertainty associated with known sources and the load reductions necessary to reach the TMDL target of 126 CFU/100 mL, a ten percent explicit margin of safety was used for this TMDL. The MOS was calculated as ten percent of the TMDL. In other words ten percent of the TMDL is set aside from the load allocation as a MOS. The ten percent MOS was derived by taking the difference between the points on the load duration curve using the 126 CFU/100 mL standard and the curve using the 113 CFU/100 mL.

6.2 Seasonality

Section 303(d)(1)(C) of the Clean Water Act and associated regulations require that a TMDL be established with seasonal variations. The Des Lacs River TMDL addresses seasonality because the flow duration curve was developed using 30 years of USGS gauge data encompassing all 12 months of the year. Additionally, the water quality standard is seasonally based on the recreation season of May 1 through September 30 and controls will be designed to reduce E. coli bacteria loads during the season covered by the standard.

7.0 TMDL

Table 7 provides an outline of the critical elements of the E. coli bacteria TMDL for the TMDL listed segment. The TMDL for the Des Lacs River (ND-09010002-001-S_00) is summarized in Table 8. The TMDL provides a summary of average daily loads by flow regime necessary to meet the water quality target (i.e. TMDL). The TMDL for each segment and flow regime provide an estimate of the existing daily load, an estimate of the average daily loads necessary to meet the water quality target (i.e. TMDL load). The TMDL load includes a load allocation from known nonpoint sources and a 10 percent margin of safety.

It should be noted that the TMDL loads, load allocations, and the MOS are estimated based on available data and reasonable assumptions and are to be used as a guide for implementation. The actual reduction needed to meet the applicable water quality standards may be higher or lower depending on the results of future monitoring.

Table 7. TMDL Summary for Des Lacs River.

Category	Description	Explanation
Beneficial Use Impaired	Recreation	Contact Recreation (i.e. swimming, fishing)
Pollutants	E. coli Bacteria	See Section 2.1
E. coli TMDL Target	126 CFU/100 mL	Based on the current State water quality standard for E. coli bacteria.
Significant Sources	Nonpoint Sources Very Limited Point Sources	Nonpoint Sources most significant. Point sources haven't contributed in last 13 years.
Margin of Safety (MOS)	Explicit	10%

TMDL = LC = WLA + LA + MOS

where

LC = loading capacity, or the greatest loading a waterbody can receive without violating water quality standards;

WLA = wasteload allocation, or the portion of the TMDL allocated to existing or future point sources;

LA = load allocation, or the portion of the TMDL allocated to existing or future non-point sources;

MOS = margin of safety, or an accounting of the uncertainty about the relationship between pollutant loads and receiving water quality. The margin of safety can be provided implicitly through analytical assumptions or explicitly by reserving a portion of the loading capacity.

Table 8. E. coli Bacteria TMDL (10^7 CFU/day) for the Des Lacs River, Assessment Unit ID ND-09010002-001-S_00, as represented by Site 380021.

	Flow Regime			
	High Flow	**Moist Conditions**	**Dry Conditions**	**Low Flow**
Existing Load	93,019	6,806	793	
TMDL	21,890	2,528	493	**77**[1]
WLA – Donnybrook, ND	48	48	0[2]	No Reduction Necessary
WLA – Carpio, ND	48	48	0[2]	
LA	19,605	2,179	444	
MOS	2,189	253	49	

[1]TMDL load is provided as a guideline for watershed management and BMP implementation.
[2]Since dry conditions are defined as flows between 3.3 and 0.6 cfs, it was determined that wastewater treatment systems would not be discharging during those flows.

8.0 ALLOCATION

The two point sources in the watershed are given a small wasteload allocation based on their historic and future projected discharges, population size, and State water quality standards. The remaining E. coli load allocation for this TMDL is allocated to nonpoint sources in the watershed. The entire nonpoint source load is allocated as a single load because there is not enough detailed source data to allocate the load to individual uses (e.g., animal feeding, septic systems, riparian grazing, or waste management).

To achieve the TMDL target identified in the report, will require significant reductions in the load allocation assigned to nonpoint sources. This reduction will require wide spread support and voluntary participation of landowners and residents in the watershed. The TMDL described in this report is a plan to improve water quality by implementing best management practices through non-regulatory approaches. "Best management practices" (BMPs) are methods, measures, or practices that are determined to be a reasonable and cost effective means for a land owner to meet nonpoint source pollution control needs," (USEPA, 2001). This TMDL plan is put forth as a recommendation for what needs to be accomplished for the Des Lacs River and associated watershed to restore and maintain recreational uses. Water quality monitoring should continue in order to measure BMP effectiveness and determine through adaptive management if loading allocation recommendations need to be adjusted.

Nonpoint source pollution is the primary contributor to elevated E. coli bacteria levels in the Des Lacs River watershed. The E. coli bacteria samples and load duration curve analysis of the impaired Des Lacs River reach (ND-09010002-001-S) identified high, moist, and dry condition flow regimes as the time of E. coli bacteria exceedences of the 126 CFU/100 mL target. To reduce NPS pollution for the high, moderate, and low flow regimes, specific BMPs are described in Section 8.1 that will mitigate the effects of E. coli bacteria loading to the impaired reaches.

Controlling nonpoint sources is an immense undertaking requiring extensive financial and technical support. Provided that technical/financial assistance is available to stakeholders, these BMPs have the potential to significantly reduce E.coli bacteria loading to the Des Lacs River. The following describe in detail those BMPs that will reduce E. coli bacteria levels in the TMDL listed segment.

Table 9. Management Practices and Flow Regimes Affected by Implementation of BMPs.

Management Practice	Flow Regime and Expected Reduction		
	High Flow-70%	Moderate Flow-80%	Low Flow-74%
Livestock Exclusion From Riparian Area	X	X	X
Water Well and Tank Development	X	X	X
Prescribed Grazing	X	X	X
Waste Management System	X	X	
Vegetative Filter Strip		X	
Septic System Repair		X	X

8.1 Livestock Management Recommendations

Livestock management BMPs are designed to promote healthy water quality and riparian areas through management of livestock and associated grazing land. Fecal matter from livestock, erosion from poorly managed grazing, land and riparian areas can be a significant source of E. coli bacteria loading to surface water. Precipitation, plant cover, number of animals, and soils are factors that affect the amount of bacteria delivered to a waterbody because of livestock. These specific BMPs are known to reduce nonpoint source pollution from livestock:

<u>Livestock exclusion from riparian areas</u>- This practice is established to remove livestock from grazing riparian areas and watering in the stream. Livestock exclusion is accomplished through fencing. A reduction in stream bank erosion can be expected by minimizing or eliminating hoof trampling. A stable stream bank will support vegetation that will hold banks in place and function as a filter from nonpoint source runoff. Added vegetation will create aquatic habitat and shading for macroinvertebrates and fish. Direct deposit of fecal matter into the stream and stream banks will be eliminated as a result of livestock exclusion by fencing.

<u>Water well and tank development</u>- Fencing animals from stream access requires an alternative water source. Installing water wells and tanks satisfies this need. Installing water tanks provides a quality water source and keeps animals from wading and defecating in streams. This will reduce the probability of pathogenic infections to livestock and the public.

<u>Prescribed grazing</u>- This practice is used to increase ground cover and ground stability by rotating livestock throughout multiple fields. Grazing with a specified rotation minimizes overgrazing and resulting erosion. The Natural Resource Conservation Service (NRCS) recommends grazing systems to improve and maintain water quality and quantity. Duration, intensity, frequency, and season of grazing can be managed to enhance vegetation cover and litter, resulting in reduced runoff, improved infiltration, increased quantity of soil water for plant growth, and better manure distribution and increased rate of decomposition, (NRCS, 1998). In a study by Tiedemann et al. (1998), as presented by USEPA (1993), the effects of four grazing strategies on bacteria levels in thirteen watersheds in Oregon were studied during the summer of 1984. Results of the study (Table 10) showed that when livestock are managed at a stocking rate of 19 acres per animal unit month, with water developments and fencing, bacteria levels were reduced significantly.

<u>Waste management system</u>- Waste management systems can be effective in controlling up to 90 percent of bacteria loading originating from confined animal feeding areas (Table 11). A waste management system is made up of various components designed to control nonpoint source pollution from concentrated animal feeding operations (CAFOs) and animal feeding operations (AFOs). Diverting clean water from the feeding area and containing dirty water from the feeding area in a pond are typical practices of a waste management system. Manure handling and application of manure is designed to be adaptive to environmental, soil, and plant conditions to minimize the probability of contamination of surface water.

Table 10. Bacterial Water Quality Response to Four Grazing Strategies (Tiedemann et al., 1988).

Grazing Strategy		Geometric Mean Bacteria Count
Strategy A:	Ungrazed	40/L
Strategy B:	Grazing without management for livestock distribution; 20.3 ac/AUM.	150/L
Strategy C:	Grazing with management for livestock distribution: fencing and water developments; 19.0 ac/AUM	90/L
Strategy D:	Intensive grazing management, including practices to attain uniform livestock distribution and improve forage production with cultural practices such as seeding, fertilizing, and forest thinning; 6.9 ac/AUM	950/L

Table 11. Relative Gross Effectiveness[a] of Confined Livestock Control Measures (Pennsylvania State University, 1992a).

Practice[b] Category	Runoff[c] Volume	Total[d] Phosphorus (%)	Total[d] Nitrogen (%)	Sediment (%)	Fecal Bacteria (%)
Animal Waste System[e]	-	90	80	60	85
Diversion System[f]	-	70	45	NA	NA
Filter Strips[g]	-	85	NA	60	55
Terrace System	-	85	55	80	NA
Containment Structures[h]	-	60	65	70	90

NA = Not Available.
a Actual effectiveness depends on site-specific conditions. Values are not cumulative between practice categories.
b Each category includes several specific types of practices.
c - = reduction; + = increase; 0 = no change in surface runoff.
d Total phosphorus includes total and dissolved phosphorus; total nitrogen includes organic-N, ammonia-N, and nitrate-N.
e Includes methods for collecting, storing, and disposing of runoff and process-generated wastewater.
f Specific practices include diversion of uncontaminated water from confinement facilities.
g Includes all practices that reduce contaminant losses using vegetative control measures.
h Includes such practices as waste storage ponds, waste storage structures, waste treatment lagoons.

8.2 Other Recommendations

Vegetative filter strip- Vegetated filter strips are used to reduce the amount of sediment, particulate organics, dissolved contaminants, nutrients, and in the case of this TMDL E. coli bacteria to streams. The effectiveness of filter strips and other BMPs in removing E. coli bacteria has been documented. Results from a study by Pennsylvania State University (1992a) as presented by USEPA (1993) (Table 11), suggest that vegetative filter strips are capable of removing up to 55 percent of bacteria loading to rivers and streams. The ability of the filter strip to remove contaminants is dependent on field slope, filter strip slope, erosion rate, amount and particulate size distribution of sediment delivered to the filter strip, density and height of vegetation, and runoff volume associated with erosion producing events (NRCS, 2001).

Septic System – Septic systems provide an economically feasible way of disposing of household wastes where other means of waste treatment are unavailable (e.g., public or private treatment facilities). The basis for most septic systems involves the treatment and distribution of household wastes through a series of steps involving the following:

1. A sewer line connecting the house to a septic tank
2. A septic tank that allows solids to settle out of the effluent
3. A distribution system that dispenses the effluent to a leach field
4. A leaching system that allows the effluent to enter the soil

Septic system failure occurs when one or more components of the septic system do not work properly and untreated waste or wastewater leaves the system. Wastes may pond in the leach field and ultimately run off directly into nearby streams or percolate into groundwater. Untreated septic system waste is a potential source of nutrients (nitrogen and phosphorus), organic matter, suspended solids, and fecal bacteria. Land application of septic system sludge, although unlikely, may also be a source of contamination.

Septic system failure can occur for several reasons, although the most common reason is improper maintenance (e.g. age, inadequate pumping). Other reasons for failure include improper installation, location, and choice of system. Harmful household chemicals can also cause failure by killing the bacteria that digest the waste. While the number of systems that are not functioning properly is unknown, it is estimated that 28 percent of the systems in North Dakota are failing (USEPA, 2002).

9.0 PUBLIC PARTICIPATION

To satisfy the public participation requirement of this TMDL, a hard copy of the TMDL for Des Lacs River and a request for comment was mailed to participating agencies, partners, and to those who request a copy. Those included in the mailing of a hard copy were as follows:

- Ward, Mountrail, and Renville County Soil Conservation Districts;
- Ward, Mountrail, and Renville County Water Resource Boards;
- Natural Resource Conservation Service (State Office); and
- U.S. Environmental Protection Agency, Region VIII

In addition to mailing copies of this TMDL for the Des Lacs River to interested parties, the TMDL was posted on the North Dakota Department of Health, Division of Water Quality web site at http://www.ndhealth.gov/WQ/SW/Z2 TMDL/TMDLs Under PublicComment/B Under Public Commment.html. A 30 day public notice soliciting comment and participation was also published in the Minot Daily News.

There were no comments received during the public comment period. US EPA Region 8 did provide a review of the draft TMDL (Appendix D). This review provides an evaluation of the TMDL against a set of minimum submission requirements required for TMDLs submitted to US EPA Region 8.

10.0 MONITORING

As stated previously, it should be noted that the TMDL loads, wasteload allocations, load allocations, and the MOS are estimated based on available data and reasonable assumptions and are to be used as a guide for implementation. The actual reduction needed to meet the applicable

water quality standards may be higher or lower depending on the results of future monitoring. To ensure that the best management practices (BMPs) that are implemented and technical assistance that is provided as a part of any watershed restoration program are successful in reducing E. coli bacteria loadings to levels prescribed in this TMDL, water quality monitoring will be conducted in accordance with an approved Quality Assurance Project Plan (QAPP).
Specifically, monitoring will be conducted for all variables that are currently causing impairments to the beneficial uses of the waterbody. This includes, but is not limited to, E. coli bacteria. Once a watershed restoration plan (e.g. Section 319 Non point Source Project Implementation Plan [PIP]) is implemented, monitoring will be conducted in the watershed beginning two years after implementation and extending five years after the implementation project is complete.

11.0 TMDL IMPLEMENTATION STRATEGY

Implementation of TMDLs is dependent upon the availability of Section 319 NPS funds or other watershed restoration programs (e.g. USDA Environmental Quality Incentive Program), as well as securing a local project sponsor and required matching funds. Provided these three requirements are in place, a PIP is developed in accordance with the TMDL and submitted to the ND Nonpoint Source Pollution Task Force and US EPA for approval. The implementation of the BMPs contained in the NPS PIP is voluntary. Therefore, success of any TMDL implementation project is ultimately dependant on the ability of the local project sponsor to find cooperating producers.

Monitoring is an important and required component of any PIP. As a part of the PIP, data are collected to monitor and track the effects of BMP implementation as well as to judge overall project success. Quality Assurance Project Plans (QAPPs) detail the strategy of how, when, and where monitoring will be conducted to gather the data needed to document the TMDL implementation goal(s). As data are gathered and analyzed, watershed restoration tasks are adapted to place BMPs where they will have the greatest benefit to water quality.

Also, as part of any implementation plan for this TMDL, it is recommended that the permitted point sources (i.e., CAFOs, AFOs) in the watershed be inspected to ensure that they are being operated in compliance with their permit conditions, and to verify that they aren’t significant E. coli sources. Currently, it is the policy of the NDDoH that all permitted CAFOs (greater than or equal to 1000 animal units) be inspected annually. Permitted AFOs (<1000 animal units) in Des Lacs watershed are inspected on an as needed basis.

12.0 REFERENCES

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Appendix A
E. coli Bacteria Data Collected for Sites 380021
(2001-2010)

E. Coli Bacteria Data for Site 380021

By Year	Date	Result (CFU/100mL)
2001	5/9/2001	20
	6/19/2001	70
	7/31/2001	110
	9/11/2001	20
2002	5/21/2002	50
	6/25/2002	360
	7/30/2002	420
	9/4/2002	70
2003	5/14/2003	10
	8/6/2003	130
2004	5/4/2004	Non-Detect*
	7/26/2004	30
	9/8/2004	60
2005	5/16/2005	10
	6/20/2005	510
	8/9/2005	30
	9/19/2005	100
2006	5/15/2006	10
	6/27/2006	20
	8/7/2006	60
	9/18/2006	160
2007	5/9/2007	50
	6/11/2007	170
	7/24/2007	50
	8/21/2007	30
	9/24/2007	80
2008	6/2/2008	30
	7/15/2008	10
	8/26/2008	580
2009	5/6/2009	Non-Detect*
	6/16/2009	120
	7/27/2009	Non-Detect*
	9/8/2009	80
2010	6/8/2010	240
	7/20/2010	Non-Detect*
	9/1/2010	610

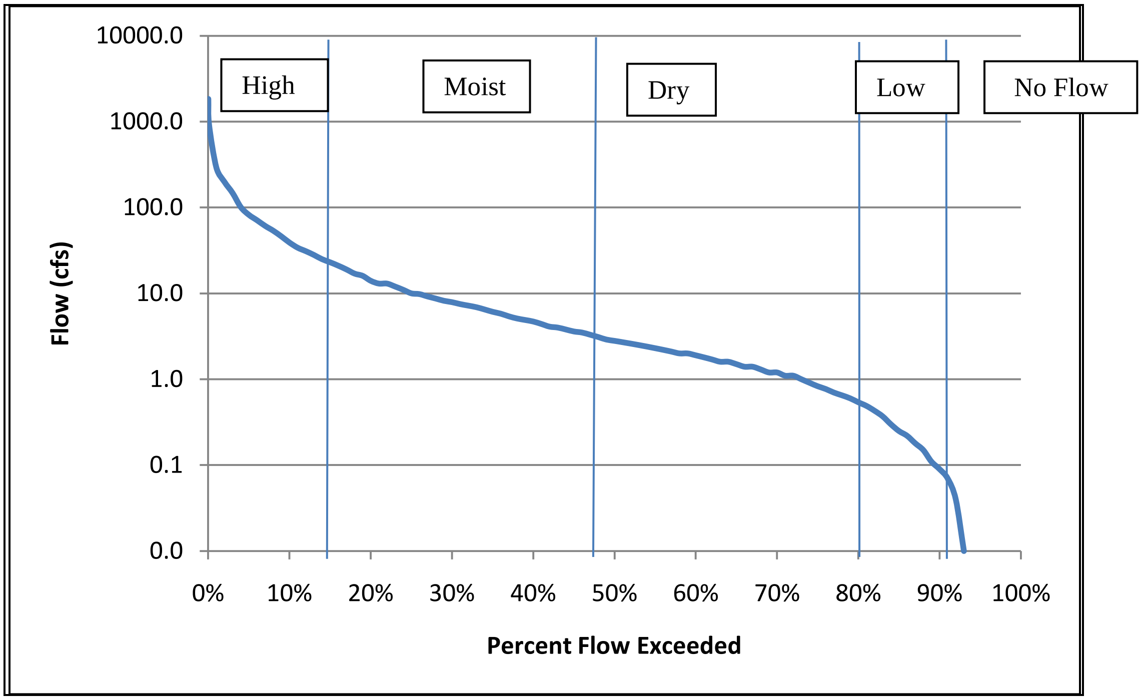
By Month	Date	Result (CFU/100mL)
May	5/9/2001	20
	5/21/2002	50
	5/14/2003	10
	5/4/2004	ND*
	5/16/2005	10
	5/15/2006	10
	5/9/2007	50
	5/6/2009	ND*
June	6/19/2001	70
	6/25/2002	360
	6/20/2005	510
	6/27/2006	20
	6/11/2007	170
	6/2/2008	30
	6/16/2009	120
	6/8/2010	240
July	7/31/2001	110
	7/30/2002	420
	7/26/2004	30
	7/24/2007	50
	7/15/2008	10
	7/27/2009	ND*
	7/20/2010	ND*
August	8/6/2003	130
	8/9/2005	30
	8/7/2006	60
	8/21/2007	30
	8/26/2008	580
September	9/11/2001	20
	9/4/2002	70
	9/8/2004	60
	9/19/2005	100
	9/18/2006	160
	9/24/2007	80
	9/8/2009	80
	9/1/2010	610

Summary of E. Coli Data 2001-2010 for Site 380021

	N	Geomean	Percent Samples Exceed 409 CFU/100mL	Number of Non-Detects	Percent of Samples Returned as Non-Detect	Use Support
May	8	16.30689409	00.0%	2	25%	Fully Supporting
June	8	118.0647963	12.5%	0	0	Fully Supporting But Threatnened
July	7	35.37334879	14.3%	2	28.6%	Fully Supporting But Threatnened
Aug	5	83.55126336	20.0%	0	0	Fully Supporting But Threatnened
Sep	8	92.25472842	12.5%	0	0	Fully Supporting But Threatnened

Appendix B
Flow Duration Curves for Site 380021

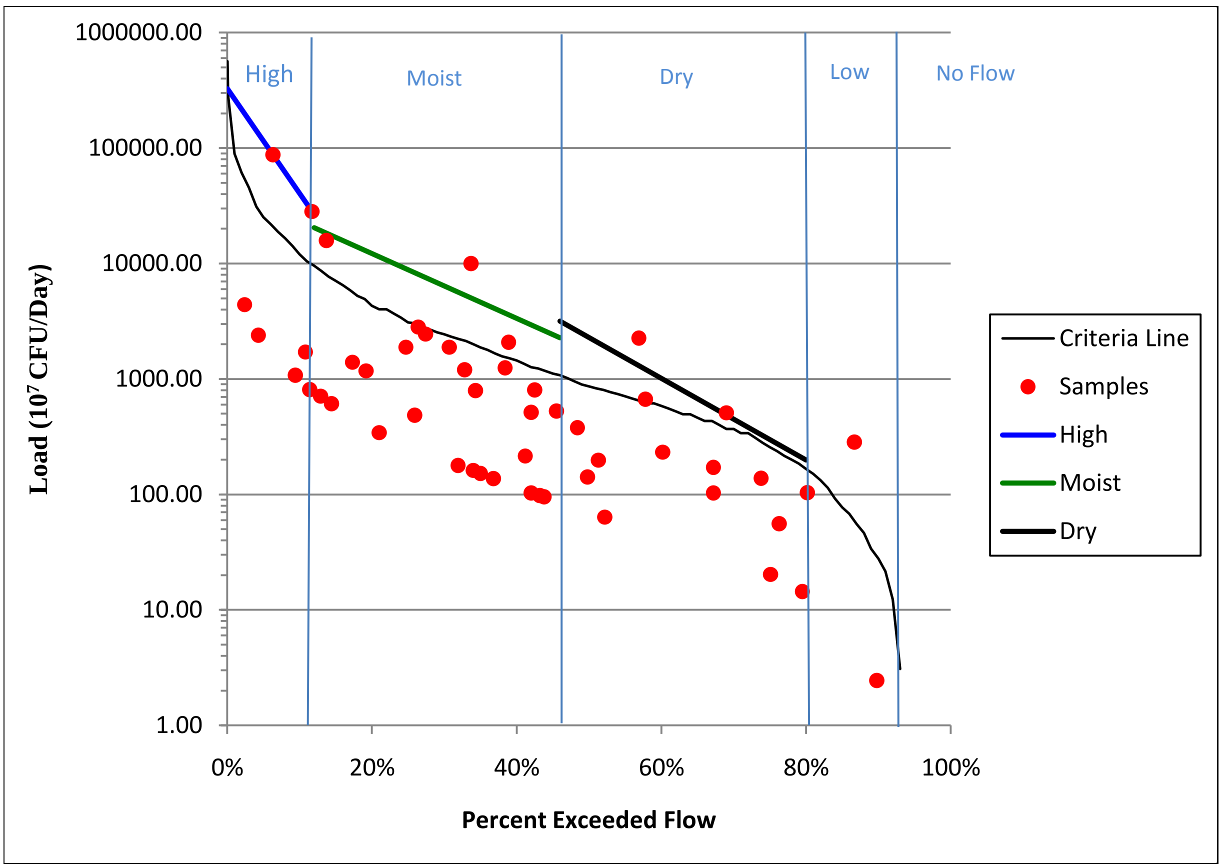
STORET Site 380021/USGS Site 05116550



Appendix C
Load Duration Curve, Estimated Loads, TMDL Targets, and Percentage of Reduction Required for Site 380021

380021 Des Lacs River near Foxholm, ND

	Load (10^7 CFU/Day)			Load (Million CFU/Period)			
	Median Percentile	Existing	TMDL	Days	Existing	TMDL	Percent Reduction
High	6.00%	93019.50	21889.96	43.80	4074253.97	958780.10	76.47%
Moist	29.00%	6805.70	2528.14	124.10	844587.77	313741.66	62.85%
Dry	63.00%	793.39	493.29	124.10	98459.16	61217.88	37.82%
			Total	292	5017301	1333740	73.42%



Appendix D
US EPA Region 8 Public Notice Review

EPA REGION VIII TMDL REVIEW

TMDL Document Info:

Document Name:	**E. coli Bacteria TMDL for the Des Lacs River in Ward, Mountrail and Renville Counties, North Dakota**
Submitted by:	**Mike Ell, North Dakota Department of Health**
Date Received:	**June 14, 2011**
Review Date:	**July 12, 2011**
Reviewer:	**Vern Berry, EPA**
Rough Draft / Public Notice / Final?	**Public Notice**
Notes:	

Reviewers Final Recommendation(s) to EPA Administrator (used for final review only):

☐ Approve
☐ Partial Approval
☐ Disapprove
☐ Insufficient Information

Approval Notes to Administrator:

This document provides a standard format for EPA Region 8 to provide comments to state TMDL programs on TMDL documents submitted to EPA for either formal or informal review. All TMDL documents are evaluated against the minimum submission requirements and TMDL elements identified in the following 8 sections:

1. Problem Description
   a. … TMDL Document Submittal Letter
   b. Identification of the Waterbody, Impairments, and Study Boundaries
   c. Water Quality Standards
2. Water Quality Target
3. Pollutant Source Analysis
4. TMDL Technical Analysis
   a. Data Set Description
   b. Waste Load Allocations (WLA)
   c. Load Allocations (LA)
   d. Margin of Safety (MOS)
   e. Seasonality and variations in assimilative capacity
5. Public Participation
6. Monitoring Strategy
7. Restoration Strategy
8. Daily Loading Expression

Under Section 303(d) of the Clean Water Act, waterbodies that are not attaining one or more water quality standard (WQS) are considered "impaired." When the cause of the impairment is determined to be a pollutant, a TMDL analysis is required to assess the appropriate maximum allowable pollutant loading rate. A TMDL document consists of a technical analysis conducted to: (1) assess the maximum pollutant loading rate that a waterbody is able to assimilate while maintaining water quality standards; and (2) allocate that assimilative capacity among the known sources of that pollutant**.** A well written TMDL document will describe a path forward that may be used by those who implement the TMDL recommendations to attain and maintain WQS.

Each of the following eight sections describes the factors that EPA Region 8 staff considers when reviewing TMDL documents. Also included in each section is a list of EPA's minimum submission requirements relative to that section, a brief summary of the EPA reviewer's findings, and the reviewer's comments and/or suggestions. Use of the verb "must" in the minimum submission requirements denotes information that is required to be submitted because it relates to elements of the TMDL required by the CWA and by regulation. Use of the term "should" below denotes information that is generally necessary for EPA to determine if a submitted TMDL is approvable.

This review template is intended to ensure compliance with the Clean Water Act and that the reviewed documents are technically sound and the conclusions are technically defensible.

1. Problem Description

A TMDL document needs to provide a clear explanation of the problem it is intended to address. Included in that description should be a definitive portrayal of the physical boundaries to which the TMDL applies, as well as a clear description of the impairments that the TMDL intends to address and the associated pollutant(s) causing those impairments. While the existence of one or more impairment and stressor may be known, it is important that a comprehensive evaluation of the water quality be conducted prior to development of the TMDL to ensure that all water quality problems and associated stressors are identified. Typically, this step is conducted prior to the 303(d) listing of a waterbody through the monitoring and assessment program. The designated uses and water quality criteria for the waterbody should be examined against available data to provide an evaluation of the water quality relative to all applicable water quality standards. If, as part of this exercise, additional WQS problems are discovered and additional stressor pollutants are identified, consideration should be given to concurrently evaluating TMDLs for those additional pollutants. If it is determined that insufficient data is available to make such an evaluation, this should be noted in the TMDL document.

1.1 TMDL Document Submittal Letter

When a TMDL document is submitted to EPA requesting formal comments or a final review and approval, the submittal package should include a letter identifying the document being submitted and the purpose of the submission.

Minimum Submission Requirements.

☒ A TMDL submittal letter should be included with each TMDL document submitted to EPA requesting a formal review.

☒ The submittal letter should specify whether the TMDL document is being submitted for initial review and comments, public review and comments, or final review and approval.

☐ Each TMDL document submitted to EPA for final review and approval should be accompanied by a submittal letter that explicitly states that the submittal is a final TMDL submitted under Section 303(d) of the Clean Water Act for EPA review and approval. This clearly establishes the State's/Tribe's intent to submit, and EPA's duty to review, the TMDL under the statute**.** The submittal letter should contain such identifying information as the name and location of the waterbody and the pollutant(s) of concern, which matches similar identifying information in the TMDL document for which a review is being requested.

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The public notice draft Des Lacs River E. coli TMDL was submitted to EPA for review via an email from Mike Ell, NDDoH on June 14, 2011. The email included the draft TMDL document and a request to review and comment on the TMDL document.

COMMENTS: None.

1.2 Identification of the Waterbody, Impairments, and Study Boundaries

The TMDL document should provide an unambiguous description of the waterbody to which the TMDL is intended to apply and the impairments the TMDL is intended to address. The document should also clearly delineate the physical boundaries of the waterbody and the geographical extent of the watershed area studied. Any additional information needed to tie the TMDL document back to a current 303(d) listing should also be included.

Minimum Submission Requirements:

☒ The TMDL document should clearly identify the pollutant and waterbody segment(s) for which the TMDL is being established. If the TMDL document is submitted to fulfill a TMDL development requirement for a waterbody on the state's current EPA approved 303(d) list, the TMDL document submittal should clearly identify the waterbody and associated impairment(s) as they appear on the State's/Tribe's current EPA approved 303(d) list, including a full waterbody description, assessment unit/waterbody ID, and the priority ranking of the waterbody. This information is necessary to ensure that the administrative record and the national TMDL tracking database properly link the TMDL document to the 303(d) listed waterbody and impairment(s).

☒ One or more maps should be included in the TMDL document showing the general location of the waterbody and, to the maximum extent practical, any other features necessary and/or relevant to the understanding of the TMDL analysis, including but not limited to: watershed boundaries, locations of major pollutant sources, major tributaries included in the analysis, location of sampling points, location of discharge gauges, land use patterns, and the location of nearby waterbodies used to provide surrogate information or reference conditions. Clear and concise descriptions of all key features and their relationship to the waterbody and water quality data should be provided for all key and/or relevant features not represented on the map

☒ If information is available, the waterbody segment to which the TMDL applies should be identified/geo-referenced using the National Hydrography Dataset (NHD). If the boundaries of the TMDL do not correspond to the Waterbody ID(s) (WBID), Entity_ID information or reach code (RCH_Code) information should be provided. If NHD data is not available for the waterbody, an alternative geographical referencing system that unambiguously identifies the physical boundaries to which the TMDL applies may be substituted.

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The Des Lacs River watershed is a 662,735 acre watershed located in Ward, Burke, Mountrail and Renville Counties, in north western North Dakota. The listed segment, which is a portion of the larger watershed, has a contributing drainage area of 223,209 acres. The Des Lacs River flows from the Lower Des Lacs Reservoir downstream to its confluence with the Souris River (71.5 miles; ND-09010002-001-S_00). It is part of the larger Souris River basin in the Des Lacs sub-basin (HUC 09010002). This segment is listed as impaired for fecal coliform bacteria and is a high priority for TMDL development. Currently the fecal coliform bacteria State water quality standard has been eliminated and replaced with an E. coli bacteria water quality standard. Therefore, the TMDL for the Des Lacs River was written based on the new E. coli bacteria water quality standard.

The designated uses for The Des Lacs River are based on the Class II stream classification in the ND water quality standards (NDCC 33-15-02.1-09).

COMMENTS: None.

1.3 Water Quality Standards

TMDL documents should provide a complete description of the water quality standards for the waterbodies addressed, including a listing of the designated uses and an indication of whether the uses are being met, not being met, or not assessed. If a designated use was not assessed as part of the TMDL analysis (or not otherwise recently assessed), the documents should provide a reason for the lack of assessment (e.g., sufficient data was not available at this time to assess whether or not this designated use was being met).

Water quality criteria (WQC) are established as a component of water quality standard at levels considered necessary to protect the designated uses assigned to that waterbody. WQC identify quantifiable targets and/or qualitative water quality goals which, if attained and maintained, are intended to ensure that the designated uses for the waterbody are protected. TMDLs result in maintaining and attaining water quality standards by determining the appropriate maximum pollutant loading rate to meet water quality criteria, either directly, or through a surrogate measurable target. The TMDL document should include a description of all applicable water quality criteria for the impaired designated uses and address whether or not the criteria are being attained, not attained, or not evaluated as part of the analysis. If the criteria were not evaluated as part of the analysis, a reason should be cited (e.g., insufficient data were available to determine if this water quality criterion is being attained).

Minimum Submission Requirements:

☒ The TMDL must include a description of the applicable State/Tribal water quality standard, including the designated use(s) of the waterbody, the applicable numeric or narrative water quality criterion, and the anti-degradation policy. (40 C.F.R. §130.7(c)(1)).

☒ The purpose of a TMDL analysis is to determine the assimilative capacity of the waterbody that corresponds to the existing water quality standards for that waterbody, and to allocate that assimilative capacity between the significant sources. Therefore, all TMDL documents must be written to meet the existing water quality standards for that waterbody (CWA §303(d)(1)(C)).

Note: In some circumstances, the load reductions determined to be necessary by the TMDL analysis may prove to be infeasible and may possibly indicate that the existing water quality standards and/or assessment methodologies may be erroneous. However, the TMDL must still be determined based on existing water quality standards. Adjustments to water quality standards and/or assessment methodologies may be evaluated separately, from the TMDL.

☒ The TMDL document should describe the relationship between the pollutant of concern and the water quality standard the pollutant load is intended to meet. This information is necessary for EPA to evaluate whether or not attainment of the prescribed pollutant loadings will result in attainment of the water quality standard in question.

☒ If a standard includes multiple criteria for the pollutant of concern, the document should demonstrate that the TMDL value will result in attainment of all related criteria for the pollutant. For example, both acute and chronic values (if present in the WQS) should be addressed in the document, including consideration of magnitude, frequency and duration requirements.

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The Des Lacs River segment addressed by this TMDL document is impaired based on E. coli concentrations impacting the recreational uses. The Des Lacs River is a Class II stream. The quality of the waters in Class II streams shall be the same as the quality of Class I streams, except that additional treatment may be required to meet the drinking water requirements. The streams may be intermittent in nature which would make these waters of limited value for beneficial uses such as municipal water, fish life, irrigation, bathing, or swimming. The quality of waters in both Class II and III must be maintained to protect secondary contact recreation uses (e.g., wading), fish and aquatic biota, and wildlife uses. Numeric criteria for E. coli in North Dakota, Class II streams have been established and are presented in the excerpted Table 4 shown below. Discussion of additional applicable water quality standards for The Des Lacs River can be found on pages 8 – 9 of the TMDL.

Table 4. North Dakota E. coli Bacteria Water Quality Standards for Class II Streams.

Parameter	Standard	
	Geometric Mean[1]	Maximum[2]
E. coli Bacteria	126 CFU/100 mL	409 CFU/100 mL

[1] Expressed as a geometric mean of representative samples collected during any consecutive 30-day period
[2] No more than 10 percent of samples collected during any consecutive 30-day period shall individually exceed the standard.

COMMENTS: None.

2. Water Quality Targets

TMDL analyses establish numeric targets that are used to determine whether water quality standards are being achieved. Quantified water quality targets or endpoints should be provided to evaluate each listed pollutant/water body combination addressed by the TMDL, and should represent achievement of applicable water quality standards and support of associated beneficial uses. For pollutants with numeric water quality standards, the numeric criteria are generally used as the water quality target. For pollutants with narrative standards, the narrative standard should be translated into a measurable value. At a minimum, one target is required for each pollutant/water body combination. It is generally desirable, however, to include several targets that represent achievement of the standard and support of beneficial uses (e.g., for a sediment impairment issue it may be appropriate to include a variety of targets representing water column sediment such as TSS, embeddeness, stream morphology, up-slope conditions and a measure of biota).

Minimum Submission Requirements:

☒ The TMDL should identify a numeric water quality target(s) for each waterbody pollutant combination. The TMDL target is a quantitative value used to measure whether or not the applicable water quality standard is attained.

Generally, the pollutant of concern and the numeric water quality target are, respectively, the chemical causing the impairment and the numeric criteria for that chemical (e.g., chromium) contained in the water quality standard. Occasionally, the pollutant of concern is different from the parameter that is the subject of the numeric water quality target (e.g., when the pollutant of concern is phosphorus and the numeric water quality target is expressed as a numerical dissolved oxygen criterion). In such cases, the TMDL should explain the linkage between the pollutant(s) of concern, and express the quantitative relationship between the TMDL target and pollutant of concern. In all cases, TMDL targets must represent the attainment of current water quality standards.

☐ When a numeric TMDL target is established to ensure the attainment of a narrative water quality criterion, the numeric target, the methodology used to determine the numeric target, and the link between the pollutant of concern and the narrative water quality criterion should all be described in the TMDL document. Any additional information supporting the numeric target and linkage should also be included in the document.

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The water quality target for this TMDL is based on the numeric water quality standards for E. coli bacteria based on the recreational beneficial use for the Des Lacs River. The target for the Des Lacs River is the E. coli standard expressed as the 30-day geometric mean of 126 CFU/100 mL during the recreation season from May 1 to September 30. While the standard is intended to be expressed as the 30-day geometric mean, the target was used to compare to values from single grab samples. This ensures that the reductions necessary to achieve the target will be protective of both the acute (single sample value) and chronic (geometric mean of 5 samples) standard.

Effective January 2011, the Department revised the state water quality standards. In these latest revisions the Department eliminated the fecal coliform bacteria standard, retaining only the E. coli bacteria standard for the protection of recreational uses. This standards change was recommended by the US EPA as E. coli is believe to be a better indicator of recreational use risk.

COMMENTS: None.

3. Pollutant Source Analysis

A TMDL analysis is conducted when a pollutant load is known or suspected to be exceeding the loading capacity of the waterbody. Logically then, a TMDL analysis should consider all sources of the pollutant of concern in some manner. The detail provided in the source assessment step drives the rigor of the pollutant load allocation. In other words, it is only possible to specifically allocate quantifiable loads or load reductions to each significant source (or source category) when the relative load contribution from each source has been estimated. Therefore, the pollutant load from each significant source (or source category) should be identified and quantified to the maximum practical extent. This may be accomplished using site-specific monitoring data, modeling, or application of other assessment techniques. If insufficient time or resources are available to accomplish this step, a phased/adaptive management approach may be appropriate. The approach should be clearly defined in the document.

Minimum Submission Requirements:

☒ The TMDL should include an identification of all potentially significant point and nonpoint sources of the pollutant of concern, including the geographical location of the source(s) and the quantity of the loading, e.g., lbs/per day. This information is necessary for EPA to evaluate the WLA, LA and MOS components of the TMDL.

☒ The level of detail provided in the source assessment should be commensurate with the nature of the watershed and the nature of the pollutant being studied. Where it is possible to separate natural background from nonpoint sources, the TMDL should include a description of both the natural background loads and the nonpoint source loads.

☒ Natural background loads should not be assumed to be the difference between the sum of known and quantified anthropogenic sources and the existing *in situ* loads (e.g. measured in stream) unless it can be demonstrated that all significant anthropogenic sources of the pollutant of concern have been identified, characterized, and properly quantified.

☒ The sampling data relied upon to discover, characterize, and quantify the pollutant sources should be included in the document (e.g. a data appendix) along with a description of how the data were analyzed to characterize and quantify the pollutant sources. A discussion of the known deficiencies and/or gaps in the data set and their potential implications should also be included.

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The TMDL document includes the landuse breakdown for the watershed based on the 2007 National Agricultural Statistics Service (NASS) data. In 2007, the dominant land use in the Des Lacs River watershed was agriculture consisting of small grain crop production. Approximately 71 percent of the landuse in the watershed was cropland, 14 percent was grassland, pastureland or conservation reserve program lands, 10 percent was wetlands, and the remaining 5 percent was developed space, barren or woods. The majority of the crops grown consist of durum/spring wheat, winter wheat, sunflowers and oil seeds.

There are two permitted wastewater treatment systems within the impaired segment of the Des Lacs River. They are the communities of Carpio and Donnybrook, North Dakota. Each system is allowed to discharge on an “as needed” basis. When these facilities do discharge they do so only once per year. However, the Carpio facility has not discharged in over 20 years and the Donnybrook facility has not discharged in the last 13 years. No fecal or E.coli bacteria monitoring is required in any of the NDPDES permits, so currently only one sample was taken at Donnybrook in 1998, and none at Carpio. Due to the limited bacteria data, allocations were derived using the State’s water quality standard and as explained in Section 5.4 of the TMDL document. The town of Foxholm is also within the impaired reach’s contributing watershed. Residents in this community utilize individual septic systems.

There are three permitted animal feeding operations (AFOs) in the TMDL listed watershed. The NDDoH has permitted one medium (301-999 animal units [Aus]) and three small (300 AUs or less) AFOs, which are all zero discharge facilities and are not deemed a significant point source of E. coli bacteria loadings to the Des Lacs River. The one small AFO currently in the permitting process will also be a zero discharge facility.

The E. coli bacteria pollution to this segment is originating from nonpoint sources in the watershed. Unpermitted animal feeding operations (AFOs) and livestock grazing and watering in proximity to the Des Lacs River are common along the TMDL listed segment. Intense early summer storms can cause overland flooding and rising river levels. Due to the close proximity of livestock grazing and watering to the river, it is likely that they contribute to the E. coli bacteria pollution in this listed segment of the Des Lacs River.

Wildlife may also contribute to the E. coli bacteria found in the water quality samples, but most likely in a lower concentration. Wildlife is nomadic with fewer numbers concentrating in a specific area, thus decreasing the probability of their contribution of fecal matter in significant quantities.

Septic system failure might also contribute to the E. coli bacteria in the water quality samples. Failures can occur for several reasons, although the most common reason is improper maintenance (e.g. age, inadequate pumping). Other reasons for failure include improper installation, location, and choice of system. Harmful household chemicals can also cause failure by killing the bacteria that digest the waste. While the number of systems that are not functioning properly is unknown, it is estimated that 28 percent of the systems in North Dakota are failing.

COMMENTS: None.

4. TMDL Technical Analysis

TMDL determinations should be supported by a robust data set and an appropriate level of technical analysis**.** This applies to **all** of the components of a TMDL document. It is vitally important that the technical basis for **all** conclusions be articulated in a manner that is easily understandable and readily apparent to the reader.

A TMDL analysis determines the maximum pollutant loading rate that may be allowed to a waterbody without violating water quality standards. The TMDL analysis should demonstrate an understanding of the relationship between the rate of pollutant loading into the waterbody and the resultant water quality impacts. This stressor → response relationship between the pollutant and impairment and between the selected targets, sources, TMDLs, and load allocations needs to be clearly articulated and supported by an appropriate level of technical analysis. Every effort should be made to be as detailed as possible, and to base all conclusions on the best available scientific principles.

The pollutant loading allocation is at the heart of the TMDL analysis. TMDLs apportion responsibility for taking actions by allocating the available assimilative capacity among the various point, nonpoint, and natural pollutant sources. Allocations may be expressed in a variety of ways, such as by individual discharger, by tributary watershed, by source or land use category, by land parcel, or other appropriate scale or division of responsibility.

The pollutant loading allocation that will result in achievement of the water quality target is expressed in the form of the standard TMDL equation:

$$TMDL = \sum LAs + \sum WLAs + MOS$$

Where:

TMDL = Total Pollutant Loading Capacity of the waterbody

LAs = Pollutant Load Allocations

WLAs = Pollutant Wasteload Allocations

MOS = The portion of the Load Capacity allocated to the Margin of safety.

Minimum Submission Requirements:

☒ A TMDL must identify the loading capacity of a waterbody for the applicable pollutant, taking into consideration temporal variations in that capacity. EPA regulations define loading capacity as the greatest amount of a pollutant that a water can receive without violating water quality standards (40 C.F.R. §130.2(f)).

☒ The total loading capacity of the waterbody should be clearly demonstrated to equate back to the pollutant load allocations through a balanced TMDL equation. In instances where numerous LA, WLA and seasonal TMDL capacities make expression in the form of an equation cumbersome, a table may be substituted as long as it is clear that the total TMDL capacity equates to the sum of the allocations.

☒ The TMDL document should describe the methodology and technical analysis used to establish and quantify the cause-and-effect relationship between the numeric target and the identified pollutant sources. In many instances, this method will be a water quality model.

☒ It is necessary for EPA staff to be aware of any assumptions used in the technical analysis to understand and evaluate the methodology used to derive the TMDL value and associated loading allocations. Therefore, the TMDL document should contain a description of any important assumptions (including the basis for those assumptions) made in developing the TMDL, including but not limited to:

(1) the spatial extent of the watershed in which the impaired waterbody is located and the spatial extent of the TMDL technical analysis;
(2) the distribution of land use in the watershed (e.g., urban, forested, agriculture);
(3) a presentation of relevant information affecting the characterization of the pollutant of concern and its allocation to sources such as population characteristics, wildlife resources, industrial activities etc…;
(4) present and future growth trends, if taken into consideration in determining the TMDL and preparing the TMDL document (e.g., the TMDL could include the design capacity of an existing or planned wastewater treatment facility);
(5) an explanation and analytical basis for expressing the TMDL through surrogate measures, if applicable. Surrogate measures are parameters such as percent fines and turbidity for sediment impairments; chlorophyll *a* and phosphorus loadings for excess algae; length of riparian buffer; or number of acres of best management practices.

☒ The TMDL document should contain documentation supporting the TMDL analysis, including an inventory of the data set used, a description of the methodology used to analyze the data, a discussion of strengths and weaknesses in the analytical process, and the results from any water quality modeling used. This information is necessary for EPA to review the loading capacity determination, and the associated load, wasteload, and margin of safety allocations.

☒ TMDLs must take critical conditions (e.g., steam flow, loading, and water quality parameters, seasonality, etc…) into account as part of the analysis of loading capacity (40 C.F.R. §130.7(c)(1)). TMDLs should define applicable critical conditions and describe the approach used to determine both point and nonpoint source loadings under such critical conditions. In particular, the document should discuss the approach used to compute and allocate nonpoint source loadings, e.g., meteorological conditions and land use distribution.

☐ Where both nonpoint sources and NPDES permitted point sources are included in the TMDL loading allocation, and attainment of the TMDL target depends on reductions in the nonpoint source loads, the TMDL document must include a demonstration that nonpoint source loading reductions needed to implement the load allocations are actually practicable [40 CFR 130.2(i) and 122.44(d)].

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The technical analysis should describe the cause and effect relationship between the identified pollutant sources, the numeric targets, and achievement of water quality standards. It should also include a description of the analytical processes used, results from water quality modeling, assumptions and other pertinent information. The technical analysis for the Des Lacs River watershed TMDL describes how the E. coli loads were derived in order to meet the applicable water quality standards for the 303(d) impaired stream segment.

The TMDL loads and loading capacities were derived using the load duration curve (LDC) approach. To better correlate the relationship between the pollutant of concern and the hydrology of the Section 303(d) listed waterbody, a LDC was developed for monitoring site 380021. The LDC was derived using the 126 CFU/100 mL TMDL target (i.e., state water quality standard), the daily flow record, and the observed E. coli data collected from the site (see Figure 7 of the TMDL document for a map of the monitoring location) from 2001-2010.

Observed in-stream E. coli bacteria data obtained from monitoring site 380021 were converted to a pollutant load by multiplying E. coli bacteria concentrations by the mean daily flow and a conversion factor. These loads are plotted against the percent exceeded of the flow on the day of sample collection (see Figure 9 of the TMDL document). Points plotted above the 126 CFU/100 mL target curve exceed the State water quality standard or TMDL target. Points plotted below the curve are meeting the State water quality standard of 126 CFU/100 mL.

To estimate the required percent reductions in loading needed to achieve the TMDL, a linear regression line through the E. coli load data above the TMDL curve in each flow regime was plotted. The required percent reductions needed under the four regimes were determined using the linear regression line.

The LDC represents flow-variable TMDL targets across the flow regimes shown in the TMDL document. For the Des Lacs River segment covered by the TMDL document, the LDC is a dynamic expression of the allowable load for any given daily flow. Loading capacities were derived from this approach for the entire listed segment at each flow regime. Table 8 shows the loading capacity load (i.e., TMDL load) for the listed segment of the Des Lacs River.

COMMENTS: None.

4.1 Data Set Description

TMDL documents should include a thorough description and summary of all available water quality data that are relevant to the water quality assessment and TMDL analysis. An inventory of the data used for the TMDL analysis should be provided to document, for the record, the data used in decision making. This also provides the reader with the opportunity to independently review the data. The TMDL analysis should make use of all readily available data for the waterbody under analysis unless the TMDL writer determines that the data are not relevant or appropriate. For relevant data that were known but rejected, an explanation of why the data were not utilized should be provided (e.g., samples exceeded holding times, data collected prior to a specific date were not considered timely, etc…).

Minimum Submission Requirements:

☒ TMDL documents should include a thorough description and summary of all available water quality data that are relevant to the water quality assessment and TMDL analysis such that the water quality impairments are clearly defined and linked to the impaired beneficial uses and appropriate water quality criteria.

☒ The TMDL document submitted should be accompanied by the data set utilized during the TMDL analysis. If possible, it is preferred that the data set be provided in an electronic format and referenced in the document. If electronic submission of the data is not possible, the data set may be included as an appendix to the document.

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The Des Lacs River TMDL data description and summary are included in the Available Data section, in tables throughout the document and in the data table in Appendix A. Recent water quality monitoring was conducted over the period from 2001-2010 and included 36 E. coli samples at station 380021. The data set also includes approximately 31 years of flow record from USGS gauging station 05116550 (co-located with the sampling station). The flow data, the E. coli data and the TMDL target, were used to develop the E. coli load duration curve for the Des Lacs River.

COMMENTS: None.

4.2 Waste Load Allocations (WLA):

Waste Load Allocations represent point source pollutant loads to the waterbody. Point source loads are typically better understood and more easily monitored and quantified than nonpoint source loads. Whenever practical, each point source should be given a separate waste load allocation. All NPDES permitted dischargers that discharge the pollutant under analysis directly to the waterbody should be identified and given separate waste load allocations. The finalized WLAs are required to be incorporated into future NPDES permit renewals.

Minimum Submission Requirements:

☒ EPA regulations require that a TMDL include WLAs for all significant and/or NPDES permitted point sources of the pollutant. TMDLs must identify the portion of the loading capacity allocated to individual existing and/or future point source(s) (40 C.F.R. §130.2(h), 40 C.F.R. §130.2(i)). In some cases, WLAs may cover more than one discharger, e.g., if the source is contained within a general permit. If no allocations are to be made to point sources, then the TMDL should include a value of zero for the WLA.

☒ All NPDES permitted dischargers given WLA as part of the TMDL should be identified in the TMDL, including the specific NPDES permit numbers, their geographical locations, and their associated waste load allocations.

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: There are two permitted wastewater treatment systems within the impaired segment of the Des Lacs River. Both Donnybrook and Carpio have permitted wastewater treatment systems, though they rarely discharge into the Des Lacs River. However, significant population increases are occurring in towns nearby due to the oil boom associated with the Bakken formation in western North Dakota, so it was determined that E. coli bacteria waste load allocations should be provided to these two systems to accommodate the potential increases in population. These wasteload allocations will be used to set effluent limits in future NDPDES permits. At such a time as wastewater treatment systems are improved, expanded, or added to the impaired reach's contributing watershed, the TMDL will be revisited to determine if any changes are needed in the wasteload allocations. The WLAs for Donnybrook's and Carpio's discharges are included in Table 8 of the TMDL document.

There are three permitted animal feeding operations (AFOs) in the TMDL listed watershed. The NDDoH has permitted one medium (301-999 animal units [Aus]) and three small (300 AUs or less) AFOs, which are all zero discharge facilities and are not deemed a significant point source of E. coli bacteria loadings to the Des Lacs River. The one small AFO currently in the permitting process will also be a zero discharge facility.

COMMENTS: None.

4.3 Load Allocations (LA):

Load allocations include the nonpoint source, natural, and background loads. These types of loads are typically more difficult to quantify than point source loads, and may include a significant degree of uncertainty. Often it is necessary to group these loads into larger categories and estimate the loading rates based on limited monitoring data and/or modeling results. The background load represents a composite of all upstream pollutant loads into the waterbody. In addition to the upstream nonpoint and upstream natural load, the background load often includes upstream point source loads that are not given specific waste load allocations in this particular TMDL analysis. In instances where nonpoint source loading rates are particularly difficult to quantify, a performance-based allocation approach, in which a detailed monitoring plan and adaptive management strategy are employed for the application of BMPs, may be appropriate.

Minimum Submission Requirements:

☒ EPA regulations require that TMDL expressions include LAs which identify the portion of the loading capacity attributed to nonpoint sources and to natural background. Load allocations may range from reasonably accurate estimates to gross allotments (40 C.F.R. §130.2(g)). Load allocations may be included for both existing and future nonpoint source loads. Where possible, load allocations should be described separately for natural background and nonpoint sources.

☒ Load allocations assigned to natural background loads should not be assumed to be the difference between the sum of known and quantified anthropogenic sources and the existing *in situ* loads (e.g., measured in stream) unless it can be demonstrated that all significant anthropogenic sources of the pollutant of concern have been identified and given proper load or waste load allocations.

Recommendation:

☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The TMDL document includes the landuse breakdown for the watershed based on the 2007 National Agricultural Statistics Service (NASS) data. In 2007, the dominant land use in the Des Lacs River watershed was agriculture consisting of small grain crop production. Approximately 71 percent of the landuse in the watershed was cropland, 14 percent was grassland, pastureland or conservation reserve program lands, 10 percent was wetlands, and the remaining 5 percent was developed space, barren or woods. The majority of the crops grown consist of durum/spring wheat, winter wheat, sunflowers and oil seeds.

The E. coli bacteria pollution to this segment is originating from nonpoint sources in the watershed. Unpermitted animal feeding operations (AFOs) and livestock grazing and watering in proximity to the Des Lacs River are common along the TMDL listed segment. Intense early summer storms can cause overland flooding and rising river levels. Due to the close proximity of livestock grazing and watering to the river, it is likely that they contribute to the E. coli bacteria pollution in this listed segment of the Des Lacs River.

Wildlife and failing septic systems may also contribute to the E. coli bacteria found in the water quality samples, but most likely in a lower concentration.

By relating runoff characteristics to each flow regime one can infer which sources are most likely to contribute to E. coli bacteria loading. Animals grazing in the riparian area contribute E. coli bacteria by depositing manure where it has an immediate impact on water quality. Due to the close proximity of manure to the stream or by direct deposition in the stream, riparian grazing impacts water quality at high, moist and dry condition, and low flows. In contrast, intensive grazing of livestock in the upland and not in the riparian area has a high potential to impact water quality at high flows and medium impact at moist condition flows. Exclusion of livestock from the riparian area eliminates the potential of direct manure deposit and, therefore, is considered to be of high importance at all flows. However, intensive grazing in the upland creates the potential for manure accumulation and availability for runoff at high flows and a high potential for E. coli bacteria contamination.

Source specific data are limited so an aggregate LA is assigned to nonpoint sources with a ranking of important contributors under various flow regimes provided as seen in the following excerpted table.

Table 6. Nonpoint Sources of Pollution and Their Potential to Pollute at a Given Flow Regime.

NonpointSources	Flow Regime		
	High Flow	Medium Flow	Low Flow
Riparian Area Grazing (Livestock)	H	H	H
Animal Feeding Operations	H	M	L
Manure Application to Crop and Range Land	H	M	L
Intensive Upland Grazing (Livestock)	H	M	L

Note: Potential importance of nonpoint source area to contribute coliform bacteria loads under a given flow regime. (H: High; M: Medium; L: Low)

COMMENTS: None.

4.4 Margin of Safety (MOS):

Natural systems are inherently complex. Any mathematical relationship used to quantify the stressor → response relationship between pollutant loading rates and the resultant water quality impacts, no matter how rigorous, will include some level of uncertainty and error. To compensate for this uncertainty and ensure water quality standards will be attained, a margin of safety is required as a component of each TMDL. The MOS may take the form of a explicit load allocation (e.g., 10 lbs/day), or may be implicitly built into the

TMDL analysis through the use of conservative assumptions and values for the various factors that determine the TMDL pollutant load → water quality effect relationship. Whether explicit or implicit, the MOS should be supported by an appropriate level of discussion that addresses the level of uncertainty in the various components of the TMDL technical analysis, the assumptions used in that analysis, and the relative effect of those assumptions on the final TMDL. The discussion should demonstrate that the MOS used is sufficient to ensure that the water quality standards would be attained if the TMDL pollutant loading rates are met. In cases where there is substantial uncertainty regarding the linkage between the proposed allocations and achievement of water quality standards, it may be necessary to employ a phased or adaptive management approach (e.g., establish a monitoring plan to determine if the proposed allocations are, in fact, leading to the desired water quality improvements).

Minimum Submission Requirements:

☒ TMDLs must include a margin of safety (MOS) to account for any lack of knowledge concerning the relationship between load and wasteload allocations and water quality (CWA §303(d)(1)(C), 40 C.F.R. §130.7(c)(1)). EPA's 1991 TMDL Guidance explains that the MOS may be implicit (i.e., incorporated into the TMDL through conservative assumptions in the analysis) or explicit (i.e., expressed in the TMDL as loadings set aside for the MOS).

- ☐ If the MOS is implicit, the conservative assumptions in the analysis that account for the MOS should be identified and described. The document should discuss why the assumptions are considered conservative and the effect of the assumption on the final TMDL value determined.
- ☒ If the MOS is explicit, the loading set aside for the MOS should be identified. The document should discuss how the explicit MOS chosen is related to the uncertainty and/or potential error in the linkage analysis between the WQS, the TMDL target, and the TMDL loading rate.
- ☐ If, rather than an explicit or implicit MOS, the TMDL relies upon a phased approach to deal with large and/or unquantifiable uncertainties in the linkage analysis, the document should include a description of the planned phases for the TMDL as well as a monitoring plan and adaptive management strategy.

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The Des Lacs River TMDL includes an explicit MOS for the listed segment derived by calculating 10 percent of the loading capacity. The explicit MOS for the Des Lacs River segment is included in Table 8 of the TMDL document.

COMMENTS: None.

4.5 Seasonality and variations in assimilative capacity:

The TMDL relationship is a factor of both the loading rate of the pollutant to the waterbody and the amount of pollutant the waterbody can assimilate and still attain water quality standards. Water quality standards often vary based on seasonal considerations. Therefore, it is appropriate that the TMDL analysis consider seasonal variations, such as critical flow periods (high flow, low flow), when establishing TMDLs, targets, and allocations.

Minimum Submission Requirements:

☒ The statute and regulations require that a TMDL be established with consideration of seasonal variations. The TMDL must describe the method chosen for including seasonal variability as a factor. (CWA §303(d)(1)(C), 40 C.F.R. §130.7(c)(1)).

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: By using the load duration curve approach to develop the TMDL allocations, seasonal variability in E. coli loads are taken into account. Highest steam flows typically occur during late spring, and the lowest stream flows occur during the winter months. Also, the TMDL is seasonal since the E. coli criteria are in effect from May 1 to September 30, therefore the TMDL is only applicable during that period.

COMMENTS: None.

5. Public Participation

EPA regulations require that the establishment of TMDLs be conducted in a process open to the public, and that the public be afforded an opportunity to participate. To meaningfully participate in the TMDL process it is necessary that stakeholders, including members of the general public, be able to understand the problem and the proposed solution. TMDL documents should include language that explains the issues to the general public in understandable terms, as well as provides additional detailed technical information for the scientific community. Notifications or solicitations for comments regarding the TMDL should be made available to the general public, widely circulated, and clearly identify the product as a TMDL and the fact that it will be submitted to EPA for review. When the final TMDL is submitted to EPA for approval, a copy of the comments received by the state and the state responses to those comments should be included with the document.

Minimum Submission Requirements:

☒ The TMDL must include a description of the public participation process used during the development of the TMDL (40 C.F.R. §130.7(c)(1)(ii)).

☐ TMDLs submitted to EPA for review and approval should include a summary of significant comments and the State's/Tribe's responses to those comments.

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The TMDL document includes a summary of the public participation process that has occurred. It describes the opportunities the public had to be involved in the TMDL development process. Copies of the draft TMDL document were mailed to stakeholders in the watershed during public comment. Also, the draft TMDL document was posted on NDoDH's Water Quality Division website, and a public notice for comment was published in local newspapers.

COMMENTS: None.

6. Monitoring Strategy

TMDLs may have significant uncertainty associated with the selection of appropriate numeric targets and estimates of source loadings and assimilative capacity. In these cases, a phased TMDL approach may be necessary. For Phased TMDLs, it is EPA's expectation that a monitoring plan will be included as a component of the TMDL document to articulate the means by which the TMDL will be evaluated in the field, and to provide for future supplemental data that will address any uncertainties that may exist when the document is prepared.

Minimum Submission Requirements:

☒ When a TMDL involves both NPDES permitted point source(s) and nonpoint source(s) allocations, and attainment of the TMDL target depends on reductions in the nonpoint source loads, the TMDL document should include a monitoring plan that describes the additional data to be collected to determine if the load reductions provided for in the TMDL are occurring.

☒ Under certain circumstances, a phased TMDL approach may be utilized when limited existing data are relied upon to develop a TMDL, and the State believes that the use of additional data or data based on better analytical techniques would likely increase the accuracy of the TMDL load calculation and merit development of a second phase TMDL. EPA recommends that a phased TMDL document or its implementation plan include a monitoring plan and a scheduled timeframe for revision of the TMDL. These elements would not be an intrinsic part of the

TMDL and would not be approved by EPA, but may be necessary to support a rationale for approving the TMDL. http://www.epa.gov/owow/tmdl/tmdl_clarification_letter.pdf

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The Des Lacs River will be monitored according to an approved quality assurance project plan. Once a watershed restoration plan is developed and implemented (e.g., a Section 319 Project Implementation Plan), monitoring will be conducted on The Des Lacs River according to a future Quality Assurance Project Plan, and monitoring will be conducted in the watershed beginning two years after implementation and extending five years after the implementation project is complete.

COMMENTS: None.

7. Restoration Strategy

The overall purpose of the TMDL analysis is to determine what actions are necessary to ensure that the pollutant load in a waterbody does not result in water quality impairment. Adding additional detail regarding the proposed approach for the restoration of water quality is not currently a regulatory requirement, but is considered a value added component of a TMDL document. During the TMDL analytical process, information is often gained that may serve to point restoration efforts in the right direction and help ensure that resources are spent in the most efficient manner possible. For example, watershed models used to analyze the linkage between the pollutant loading rates and resultant water quality impacts might also be used to conduct "what if" scenarios to help direct BMP installations to locations that provide the greatest pollutant reductions. Once a TMDL has been written and approved, it is often the responsibility of other water quality programs to see that it is implemented. The level of quality and detail provided in the restoration strategy will greatly influence the future success in achieving the needed pollutant load reductions.

Minimum Submission Requirements:

☒ EPA is not required to and does not approve TMDL implementation plans. However, in cases where a WLA is dependent upon the achievement of a LA, "reasonable assurance" is required to demonstrate the necessary LA called for in the document is practicable). A discussion of the BMPs (or other load reduction measures) that are to be relied upon to achieve the LA(s), and programs and funding sources that will be relied upon to implement the load reductions called for in the document, may be included in the implementation/restoration section of the TMDL document to support a demonstration of "reasonable assurance".

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The Allocation section (Section 8.0) of the TMDL document includes a list of BMPs that are recommended to meet the TMDL loads. NDDoH typically works with local conservation districts or other cooperators to develop and implement Watershed Restoration Projects after the TMDL has been developed and approved. Detailed project implementation plans are developed as part of this process if Section 319 money is used.

For the two point sources, as NDPDES permits are renewed, E. coli and /or E. coli bacteria limits will be established in their permits and discharge monitoring will be implemented to ensure both the permit limits and their discharge volumes are consistent with their wasteload allocations and therefore, water quality standards. When the permits for the two towns are renewed, it may be necessary to document reasonable assurance demonstrating that the nonpoint source loadings are practicable.

COMMENTS: None.

8. Daily Loading Expression

The goal of a TMDL analysis is to determine what actions are necessary to attain and maintain WQS. The appropriate averaging period that corresponds to this goal will vary depending on the pollutant and the nature of the waterbody under analysis. When selecting an appropriate averaging period for a TMDL analysis, primary concern should be given to the nature of the pollutant in question and the achievement of the underlying WQS. However, recent federal appeals court decisions have pointed out that the title TMDL implies a "daily" loading rate. While the most appropriate averaging period to be used for developing a TMDL analysis may vary according to the pollutant, a daily loading rate can provide a more practical indication of whether or not the overall needed load reductions are being achieved. When limited monitoring resources are available, a daily loading target that takes into account the natural variability of the system can serve as a useful indicator for whether or not the overall load reductions are likely to be met. Therefore, a daily expression of the required pollutant loading rate is a required element in all TMDLs, in addition to any other load averaging periods that may have been used to conduct the TMDL analysis. The level of effort spent to develop the daily load indicator should be based on the overall utility it can provide as an indicator for the total load reductions needed.

Minimum Submission Requirements:

☒ The document should include an expression of the TMDL in terms of a daily load. However, the TMDL may also be expressed in temporal terms other than daily (e.g., an annual or monthly load). If the document expresses the TMDL in additional "non-daily" terms the document should explain why it is appropriate or advantageous to express the TMDL in the additional unit of measurement chosen.

Recommendation:
☒ Approve ☐ Partial Approval ☐ Disapprove ☐ Insufficient Information

SUMMARY: The Des Lacs River E. coli TMDL document includes daily loads expressed as colonies per day for the listed segment of the river. The daily TMDL loads are included in TMDL section (Section 7.0) of the document.

COMMENTS: None.