From: Stephanie Klamm
To: Gunderson, Larry (MPCA)
Subject: MN River Turbidity draft TMDL Public Comment
Date: Tuesday, April 24, 2012 10:28:20 AM

Mr. Gunderson:
As I was browsing the Minnesota River Turbidity TMDL draft report. I noticed that in Appendix A, of the Municipal and Industrial Dischargers associated with the Load Allocation; the City of Willmar wastewater treatment plant was not listed in the spreadsheet. I believe that this is just a typo on the MPCA's part to overlook this WWTP, but would like to see it included in the list, there was a new plant contructed in 2008 and 2010 and was up and running in the fall of 2010.
Thanks
Stephanie Klamm
Hawk Creek Watershed Project

Stephanie Klamm
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May 22, 2012

Minnesota Pollution Control Agency
Attn: Mr. Larry Gunderson
Minnesota River Coordinator
520 Lafayette Road North
St. Paul, MN 55155

Re: Comments on Minnesota River Turbidity TMDL

Dear Mr. Gunderson:

I am pleased to submit the following comments on behalf of Friends of the Minnesota Valley regarding the Minnesota River Turbidity Total Maximum Daily Load (TMDL) Draft Report, dated February 2012.
Friends of the Minnesota Valley supports the Minnesota Pollution Control Agency's preferred alternative as outlined in sediment reduction model scenario #5. We believe that model scenario #5 represents the most balanced and comprehensive approach to sediment reduction in the Minnesota River Watershed.

In order to implement sediment reduction model scenario #5, we believe that adequate funding must be made available for all implementation steps and activities as listed in the draft report with a focus on near stream channel sediment reduction Best Management Practices (BMPs). The need for such funding is supported by documentation in the statistical report, which is in turn based on data collected and published by the Minnesota State University-Mankato's Water Resources Center. The statistical report clearly shows that upland overland flow from agricultural sources has a profound effect on near stream channel sediment delivery to first-order streams and, ultimately, the main stem of the Minnesota River. Watershed alterations in overland flow caused by agricultural activities and changes to the landscape since 1895 have resulted in this increase in sedimentation.

In addition, the increase in overland flow from urban non-point sources comprised of impervious surfaces in Minnesota River communities has exacerbated the transport of sediment and organic materials, contributing significantly to the sediment composition during low flow conditions. Again, we would stress the need for obtaining adequate funding and incentives, in terms of both monetary and human resources, to address municipal non-point source-generated sedimentation through both structural and non-structural BMPs.

10800 Lyndale Ave. S., Suite #120/ Bloomington, MN 55420/ Ph.: 952-881-9055/ Fax: 952-881-3174/ www.friendsofmnvalley.org

In conclusion, Friends of the Minnesota Valley endorses the Minnesota River Turbidity TMDL Draft Report as an accurate representation of the input and recommendations of stakeholders throughout the Minnesota River Watershed. We recommend approval of the final report in a timely manner to begin to address the sedimentation problem in the Minnesota River Watershed as quickly as possible.

We thank you for this opportunity to comment. Please feel free to contact me at 952-881-9065 if you have any questions.

Sincerely,

Lori Nelson
Executive Director

Cc: FMV Board of Directors
Scott Sparlin

From:	Mike Schmidt
To:	Gunderson, Larry (MPCA)
Cc:	Kris Sigford; Henry VanOffelen
Subject:	Comments on Minnesota River Turbidity TMDL
Date:	Tuesday, May 29, 2012 2:58:32 PM
Attachments:	S Metro TMDL Comments 2012-05-29.pdf

Mr. Gunderson:

Attached are the comments that MCEA submitted on the South Metro Mississippi TSS TMDL. The comments address the lack of assurance that nonpoint source reductions will be achieved, and focus in particular on the assumptions used to develop Scenario 5 of the Minnesota River Turbidity TMDL. MCEA evaluated these assumptions and other assurances that MPCA identified in the South Metro Mississippi TMDL. While the comments address the larger basin draining to Lake Pepin, the Minnesota River basin will have the same issues in meeting nonpoint source reduction targets. Please consider these comments as part of the comment record for the Minnesota River Turbidity TMDL.

Thank you for the opportunity to comment.

Sincerely,

Michael Schmidt
Water Quality Program Associate
Minnesota Center for Environmental Advocacy
26 E. Exchange Street Suite 206
St. Paul, MN 55101
Direct line: 651-287-4866
mschmidt@mncenter.org
http://www.mncenter.org

Since 1974, your legal and scientific voice protecting and defending Minnesota's environment.

Minnesota Center for Environmental Advocacy
26 East Exchange Street • Suite 206 • Saint Paul, MN 55101-1667 • 651.223.5969

May 29, 2012

VIA ELECTRONIC MAIL

Robert Finley
Minnesota Pollution Control Agency
12 Civic Center Plaza, Suite 2165
Mankato, MN 56001

Re: Draft South Metro Mississippi River Total Suspended Solids Total Maximum Daily Load (TMDL)
Comments of Minnesota Center for Environmental Advocacy

Thank you for the opportunity to submit these comments on behalf of the Minnesota Center for Environmental Advocacy on the draft South Metro Mississippi River Total Maximum Daily Load (TMDL) for total suspended solids. MCEA is a Minnesota non-profit environmental organization whose mission is to use law, science and research to preserve and protect Minnesota's wildlife, natural resources and the health of its people. MCEA has statewide membership. MCEA has been actively involved for many years in state water quality issues, including TMDL review, implementation, and funding, and participates in a number of related policy and legal matters. MCEA has served on the Stakeholder Advisory Committee for this TMDL since 2004.

MCEA is concerned that the draft South Metro Mississippi TMDL is not ready for approval because the TMDL does not provide reasonable assurance of nonpoint source or point source implementation.

EPA requires that TMDLs developed for waters impaired by both point and nonpoint sources for which the wasteload allocation is based on an assumption that nonpoint source load reductions will occur, must include reasonable assurances that nonpoint source control measures will achieve expected load reductions in order for the TMDL to be approvable.[1] This information is necessary for EPA to determine that the TMDL, including the load and wasteload allocations, has been established at a level necessary to implement water quality standards.[2]

This is because, under the Clean Water Act, the only *federally* enforceable controls are those for point sources through the NPDES permitting process. In order to allocate loads among both nonpoint and point sources, "there must be reasonable assurances that nonpoint source reduction

[1] United States Environmental Protection Agency, *Guidelines for Reviewing TMDLs Under Existing Regulations Issued in 1992*, available at: http://water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/final52002.cfm.
[2] *Id.*

will in fact be achieved. Where there are not reasonable assurances, under the CWA, the entire load reduction must be assigned to point sources."[3]

The South Metro Mississippi River TMDL requires reasonable assurance, but those assurances contained in the draft document are indefinite and wholly inadequate. As such, EPA should not approve the TMDL as drafted.

What is Reasonable Assurance?

EPA defines reasonable assurance as "a high degree of confidence that wasteload allocations and/or load allocations in TMDLs will be implemented by Federal, State or local authorities and/or voluntary action."[4] EPA further supplies a four part test to evaluate the reasonable assurance section of a TMDL, specifying that the nonpoint source control actions or management measures must be:

- specific to the pollutant and water body for which the TMDL is being established,
- implemented as expeditiously as practicable,
- accomplished through a reliable delivery system; and
- supported by adequate funding.[5]

The Draft TMDL Lacks Reasonable Assurance That Necessary Agricultural Controls Will Occur

Needed agricultural reductions are enormous and countered by available trend data

In order to meet water quality standards for the South Metro Mississippi, the TMDL calls for 50 percent reductions from the highly-polluted Minnesota River at median flows and 60% at high and very high flows. To achieve this, the TMDL incorporates Scenario 4 of the Minnesota River Turbidity TMDL. Scenario 4 requires changes in agricultural practices on a massive, landscape-level scale, but neither TMDL provides a roadmap or steps to achieve the changes. In fact, nearly all current agricultural land use trends for which data are available *run counter to* the changes called for in the Scenario 4, as demonstrated in the table below.

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[3] United States Environmental Protection Agency, *Guidance for Water Quality-Based Decisions: The TMDL Process*, Office of Water, EPA 440/4-91-001, April, 1991, Chapter Two, available at: http://water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/dec2.cfm.

[4] *Protocol for Developing Sediment TMDLs*, U.S. EPA (1999) at 7-6.

[5] *Reasonable Assurance for Sources for Which an NPDES Permit is Not Required,* Federal Register, Volume 65, No. 135, Thursday, July 13, 2000, Rules and Regulations, pages 43599-43600.

TMDL Requirements[6] Versus Actual Trends for Agricultural BMPs

TMDL Assumption	Existing Practice or Trend
Increase land in perennial vegetation to 20% throughout the watershed (and to 30% in the Chippewa River watershed)	Perennial land is decreasing: 69% of expiring CRP acres were not renewed in the last four years.[7] As much CRP is expiring in 2012 as in the previous four years combined.[8] Lower CRP cap and lower conservation funding are expected in the next farm bill. Corn acres planted in Minnesota are up 13% since 2010, reaching record-high levels.[9]
Increase conservation tillage to 75% of row crops (crop residue of ≥ 37.5%)	Conservation tillage rate for corn has ranged from 14% to 28% since 1989.[10] Soybean conservation tillage rate is at 60%, but soybean acres are down 6% since 2010.
Low-till or perennials on slopes >12%	No data
Cover crops used on row crop lands with slopes >3% (apparently 100% of such lands)	No data for >3% slopes. Cover crops were used on 0.26% of cultivated acres in Minnesota in 2011, down from a high of 0.32% in 2010.[11] If all cover crops in the state were on >3% slopes in the Minnesota River basin, they would cover 6.4% of >3% slopes.
Controlled drainage on land with slope <1%	No data
Eliminating surface tile inlets	No data

[6] Draft TMDL at 45 (incorporating Scenario 4 of the Minnesota River Turbidity TMDL); Draft Minnesota River Turbidity TMDL at 166-67.
[7] Based on the USDA Farm Service Agency's annual Conservation Reserve Program reports and enrollment summaries from 2007-2012.
[8] *Id.*
[9] *See* "Prospective Plantings," USDA, Mar. 30, 2012, available at http://www.usda.gov/nass/PUBS/TODAYRPT/pspl0312.pdf; "AGRI-VIEW," USDA National Agricultural Statistics Service, July 10, 2008, available at http://www.nass.usda.gov/Statistics_by_State/Minnesota/Publications/Agri-View/2008/agvw1208.pdf.
[10] See "Minnesota River Basin Statistical Trend Analysis," Water Resources Center at Minnesota State University-Mankato, Nov. 2009, at 14 ("Residue on corn fields, however, peaked at 27.2 percent in 1993").
[11] "Minnesota Conservation Programs State File," USDA NRCS, available at http://soils.usda.gov/survey/rca/viewer/reports/cp_mn.html; USDA 2007 Natural Resources Inventory, http://soils.usda.gov/survey/rca/viewer/reports/nri_crop_mn.html.

Despite these substantial changes, the Minnesota River Turbidity TMDL found the Minnesota River would still not meet the turbidity standard under Scenario 4. The draft Minnesota River Turbidity TMDL requires even more expansive land use changes to achieve even greater reductions (Scenario 5), but the South Metro Mississippi TMDL fails to incorporate or even identify them. These changes include:

- Conservation tillage on 75% of *all* cropped acres;[12]
- Increased total land in pasture/CRP,[13] with a shift from grazed pasture to CRP;[14]
    - Assumes a 50-80% reduction in transport capacity from perennial land cover
- Load reductions from developed areas outside MS4s;[15]
    - 85 percent reduction to load from impervious surfaces
    - 50 – 85 percent reductions to loads from pervious surfaces
- Changes in critical shear stress within bluff reaches;[16]
- Reduced sediment from bluffs (sediment supply from the bluffs were reduced by 25 percent);[17]
- Reduced erodibility factors from ravines by 50%[18] and from silt and clay in the bluff reaches (achieved by grade control to prevent headcuts and movement of the channel away from the bluff foot);[19] and
- Reduced sand transport capacity in bluff reaches, in spite of model calibration establishing a higher capacity.[20]

These additional land use and erosion assumptions run even more strongly counter to existing trends and actually defy the calibrated modeling assumptions describing sediment movement in the basin.

Elements of reasonable assurance fall short

In the draft South Metro TMDL, MPCA sets forth a list of elements comprising reasonable assurance, adopted from EPA's reasonable assurance requirements for the large-scale Chesapeake Bay TMDL, as follows:[21]

- Develop strategies…to meet TMDL allocations…;
- Evaluate existing programmatic, funding, and technical capacity to fully implement basin and watershed strategies;

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[12] Draft Minnesota River Turbidity TMDL at 166.
[13] *Id.* at 171.
[14] *Id.* at 173-74; Minnesota River Basin Turbidity TMDL Scenario Report, TetraTech, Dec. 8, 2009, at 56, 57 ("this land use category primarily represents CRP").
[15] *Id.* at 55-56.
[16] *Id.* at 46; Draft Minnesota River Turbidity TMDL at 167.
[17] Draft Minnesota River Turbidity TMDL at 173.
[18] *Id.* at 174.
[19] Minnesota River Basin Turbidity TMDL Scenario Report at 56.
[20] *Id.* at 56.
[21] Draft TMDL at 82.

- Identify gaps in current programs, funding and local capacity to achieve the needed controls;
- Commit to systematically fill gaps and build program capacity;
- Agree to meet specific, iterative, short term milestones;
- Demonstrate increased implementation and/or pollutant reductions;
- Commit to track/monitor/assess and report progress at set regular times…; and
- Accept contingency requirements if certain milestones are not on schedule.

Unfortunately, the Minnesota Pollution Control Agency merely supplies this list of generic components of reasonable assurance, and does not proceed to state the strategies to be implemented by whom, identify gaps, provide milestones, timelines or viable contingency plans if they are not met, or provide the means by which to measure and report progress on BMP adoption and achievement of water quality goals. To meet the approvability standards for reasonable assurance, the final TMDL must fill in these blanks.

No viable contingency plan

First, the MPCA releases the point sources from any further requirements should unspecified, time-indefinite milestones not be met: "Contingency requirements for this TMDL will not include ratcheting down further on point sources by reducing their waste load allocations, be they permitted MS4s or permitted wastewater treatment facilities."[22] Although MCEA recognizes that MS4s cannot meet the sediment reductions required by the draft TMDL alone, we note that this blanket release is contrary to EPA's requirements: "Where there are not reasonable assurances, under the CWA, the entire load reduction must be assigned to point sources."[23]

Next, the MPCA presents a weak brew of "contingency requirements" focusing on nonpoint sources should unspecified, time-indefinite milestones not be met. These are comprised chiefly of possibly reviewing local government implementation of and compliance with longstanding state laws requiring shoreland and ditch buffers, and prohibiting nuisance nonpoint pollution and excessive soil loss (this last law actually only "encourages" local units to adopt excessive soil loss prohibition ordinances).[24]

The inadequacy of such an approach is already known to the MPCA. As the TMDL itself notes, even achieving full compliance with the existing nonpoint source requirements such as shoreland buffers will not achieve water quality standards.[25] While enforcement of existing law would be useful (and long overdue) in the short-term, it simply does not add up to broad adoption of perennials, lower peak flows, reduced bluff slumping, and near-universal conservation tillage.

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[22] TMDL at 82.
[23] United States Environmental Protection Agency, *Guidance for Water Quality-Based Decisions: The TMDL Process*, Office of Water, EPA 440/4-91-001, April, 1991, Chapter Two, available at: http://water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/decisions_index.cfm.
[24] TMDL at 83.
[25] TMDL at 75.

The steps MPCA suggests do not come close to providing reasonable assurances that the nonpoint source load allocation will be met.

MPCA has broad, but unused, authority to address agricultural pollution

Interestingly, this hapless "reasonable assurance" section ignores MPCA's broad statutory duty and authority to prohibit and prevent water pollution from nonpoint sources.

> The agency is hereby given and charged with the following powers and duties:
> … (e) to adopt, issue, reissue, modify, deny, or revoke, enter into or enforce reasonable orders, permits, variances, standards, rules, schedules of compliance, and stipulation agreements, under such conditions as it may prescribe, in order to prevent, control or abate water pollution, or for the installation or operation of disposal systems or parts thereof, or for other equipment and facilities:
> (1) requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the state resulting in pollution in excess of the applicable pollution standard established under this chapter.[26]

Minn. Stat. Chapter 115.03, subd. 1.

Not only does the draft TMDL fail to address how MPCA would exercise its powers to restrict pollution from nonpoint sources, the agency is actively denying that it has the above cited duty and authority:

> The new head of the Minnesota Pollution Control Agency on Wednesday deflected criticism of draft standards for cleaning up the Mississippi and Minnesota rivers, saying *the agency can't compel farmers to cut the runoff that plays a big part in the problem.*
>
> In an interview with The Associated Press, John Linc Stine said his agency is developing a voluntary program to encourage farmers to help reduce sediment that muddies the rivers and threatens to transform Lake Pepin — a scenic wide spot on the Mississippi — into a bog in coming years. *He acknowledged that farmers who don't want to clean up their runoff won't have to.*[27](Emphases added.)

Adequacy of funding

The TMDL fails to demonstrate that the funding available will be sufficient to accomplish the load reductions. The TMDL identifies the Clean Water, Land, and Legacy Amendment as the funding source to solve the problems identified in the TMDL. This funding alone will not be enough to achieve the necessary reductions:

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[26] Minn. Stat. Chapter 115.03, subd. 1.
[27] Minn. pollution watchdog says voluntary efforts by farmers can help clean rivers, Steve Karnowski, Associated Press, May 23, 2012; available at:
http://www.therepublic.com/view/story/a7fb7056dc9e466389d472c62e156f6b/MN--AP-Interview-Stine/

- Decades of federal conservation funding through the Natural Resource Conservation Service, including $1.85 billion from 1995-2010,[28] yielded the current level of impairment;
- An MPCA report in 2004 estimated that the cost to clean up the nonpoint source contribution to the state's impaired waters could range from $600 million to $3 billion.[29] Since that time, the impaired waters list has grown by 1,659 impairments;
- The Legislature has appropriated about $60-70 million of Clean Water, Land and Legacy Amendment proceeds per biennium for nonpoint source protection and restoration using the Clean Water, Land, and Legacy Amendment.[30] MCEA's evaluation of this funding found that it was not consistently spent on projects that are well-targeted to reduce nonpoint source pollution.[31]

It is obvious that decades of voluntary federal, state and local programs backed by billions of dollars in public subsidies have not come close to meeting the agricultural sector load reduction obligations incorporated in the draft South Metro TMDL. It is equally obvious that continued reliance on the exact same approach will not work going forward.

A Programmatic Gap Analysis Should Be Conducted Immediately

To rectify the omissions in the draft TMDL and meet its obligation to provide reasonable assurance that the agricultural reductions will be achieved, the MPCA should immediately:

- Estimate the extent of nonpoint source reductions achievable through full compliance with existing law regarding shoreland and ditch buffers, soil loss ordinances, animal feeding operations, and agricultural nuisance;
- Compare the findings from the above with the modeled agricultural practice inputs required to meet water quality standards from Scenario 5 from the draft Minnesota River TMDL (for the Minnesota River Basin portion of the Lake Pepin watershed) and Scenario 17 from the draft South Metro Mississippi TMDL (for the remainder of the Lake Pepin watershed);
- Calculate the difference between steps one and two;
- Provide near-term (1-2 years milestones) for nonpoint source data collection, water quality sampling, and public reporting of progress;
- Outline strategies by which the remaining reductions will be achieved, including steps to be taken in the one-year implementation planning process to:
    - Evaluate the adequacy of MPCA's legal authorities;
    - Evaluate the load reductions likely achievable through voluntary, publicly-subsidized Federal, State and local programs;

[28] "2011 Farm Subsidy Database," Environmental Working Group, available at http://farm.ewg.org/region.php?fips=27000.
[29] Minnesota Pollution Control Agency, *Minnesota's Impaired Waters, Report to the Legislature* (March 2003), at ii.
[30] *See* "Biennial Report of the Clean Water Council," Clean Water Council, Dec. 2010, at 12.
[31] "Clean Water Grants for Nonpoint Source Protection and Restoration by the Board of Water and Soil Resources Fiscal Years 2007-2010," MCEA, Jan. 2011.

- Evaluate the necessity of regulatory controls for agricultural sources to meet water quality standards
- Develop methods to more aggressively target funding to specific locations, including identification and prioritization of:
  - bluffs in need of toe armoring or other stabilization;
  - ravines subject to headcutting in need of drop structures;
  - streambanks subject to slumping during high-flow events;
  - areas in need of perennial cover;
  - insuring compliance for the 28 percent of ditch miles where buffers are required but lacking;[32]
  - ditch systems that contribute most to impairments based on field review and water quality monitoring and modeling;
  - areas where 1-rod buffers alone will not achieve desired sediment reduction benefits and further controls such as side inlets controls are needed;
  - a systematic evaluation of the condition and use of legal drainage systems and determination of whether actions are needed to help achieve necessary load reductions (e.g., improvement, abandonment, or repair);
  - a systematic evaluation of the condition and use of road ditches for agricultural drainage and determination of whether actions are needed to help achieve necessary load reductions (right-of-way enforcement); and
  - evaluation of tile line permitting and controlled drainage.

The above elements and near-term processes through which they will be more fully addressed should be written into a new reasonable assurance section for nonpoint sources prior to MPCA adoption of the draft TMDL and submittal to USEPA.

The Draft TMDL Lacks Reasonable Assurance That Necessary Point Source Controls Will Occur

The fact that a TMDL's wasteload allocation must be incorporated into NPDES permits for point sources ordinarily provides sufficient reasonable assurance that this load reduction will occur. However, this often is not the case in Minnesota due to infirmities in MPCA's implementation of wasteload allocations through a general MS4 NPDES permit.

The draft South Metro TMDL assigns an aggregate wasteload allocation to the 217 MS4s in the Lake Pepin watershed.[33] Nearly all MS4s in Minnesota are covered under a General NPDES permit, which states:[34]

[32] *Public Drainage Ditch Buffer Study*, Minnesota Board of Water and Soil Resources, February 2006, at 2, available at http://www.bwsr.state.mn.us/aboutbwsr/publications/bufferstudyweb.pdf.
[33] TMDL at 57.
[34] Permit No. MNR040000 at 7.

> If a USEPA-approved **TMDL(s)** has been developed, you must review the adequacy of your Storm Water Pollution Prevention Program to meet the **TMDL's Waste Load Allocation** set for storm water sources. If the **Storm Water Pollution Prevention Program** is not meeting the applicable requirements, schedules and objectives of the **TMDL**, you must modify your **Storm Water Pollution Prevention Program**, as appropriate, within 18 months after the TMDL is approved. (Emphases in text.)

Ostensibly, this permit provision is intended to meet the requirement of federal regulation which mandates that effluent limits in NPDES permits must be consistent with the requirements of a wasteload allocation in an EPA-approved TMDL.[35] However, it is impossible for an MS4 to ascertain the adequacy of its SWPPP when it does not have an individual wasteload allocation to provide a target.

MPCA is not currently overseeing MS4 implementation of approved wasteload allocations pursuant to approved TMDLs in a consistent or meaningful way. The MS4 general permit contains no mechanism to translate the aggregated wasteload allocation into permit limits for the 217 MS4s in the watershed. Absent that apportionment, there can be no enforceable permit limit to provide assurance of reductions.

Even if individual WLAs were assigned, it is unclear how the agency will ensure their achievement. MPCA has acknowledged that there is no requirement to track and report pollutant load reductions under the current permit.[36] As a result, neither the public nor MPCA knows whether the aggregated WLAs from the dozens of prior TMDLs have been implemented.

MCEA requests that MPCA amend the draft TMDL to provide clearer direction on how the aggregate wasteload allocation will be apportioned among the 217 MS4s, when compliance will be required, and how implementation will be tracked by MPCA and reported to the public.

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[35] 40 C.F.R. §122.44(d)(1)(vii)(B).

[36] Email from Dale Thompson, MPCA Municipal Stormwater Supervisor, to Kris Sigford, MCEA Water Quality Director, Mar. 24, 2011.

Conclusion

The draft TMDL fails to provide reasonable assurance that either the load allocation for nonpoint sources or the wasteload allocation for point sources will be achieved such that water quality standards for total suspended solids will be met. Without reasonable assurance, the TMDL cannot be approved by EPA. MCEA recommends that the TMDL be amended to address each of the deficiencies identified above prior to adoption and submittal to USEPA.

Thank you for the opportunity to comment.

Sincerely,

Kris Sigford
Water Quality Director

Michael Schmidt
Water Quality Associate

Comments on Draft Minnesota River TMDL
Les Everett, University of Minnesota Water Resources Center

29 February 2012

1. The TMDL report is well written regarding the sources and load allocations.

2. There are two changes that are needed with regard to implementation planning, both having to do with phasing of implementation. The first is phasing by major watershed and the second is phasing by BMP class. On pages 192-193 (report page number)/202-203 (pdf page number), implementation is projected to be phased in by major watershed based on the PCA monitoring cycle, with the Blue Earth watershed not beginning implementation until 2021. On the other hand, implementation of BMPs is projected to start in five year phases based on BMP class, with water storage and infiltration not beginning until 2020, and bank and bluff stabilization until 2025. These two methods of phasing (by major watershed and by BMP class) are not compatible and neither is useful. Instead, the following implementation statement from the South Metro Mississippi River TSS TMDL should be substituted for the current phasing statements in the MN River Turbitiy TMDL: p. 74/84 "Local partners in priority watersheds will work in cooperation with MPCA project managers to develop detailed implementation plans. They will develop a Phase One component first by 2013, using load-reduction goals allocated to the watershed as water quality targets to achieve by 2020. …..They will develop Phase Two and subsequent phases in accordance with the MPCA's watershed approach to studying all major watersheds in the state on a 10-year cycle." Therefore, Phase One starts immediately for all priority watersheds and Phase Two starts with the 10-year cycle. Likewise, phasing by BMP type is counter-productive and would delay start of the BMPs that take the longest to complete. Funding sources and rules differ by BMP type (EQIP, CCRP, CRP-CP39, WRP-RIM, BMP-loans, shoreland rules, etc.) and each of these sources must be tapped for the entire period of implementation, not an artificial BMP phasing period which would severely under-utilize those funds and interfere with the full suite of tools needed in redressing impairments.

3. Achievable and visible goals are needed for the intermediate term. The following report statement is not an achievable intermediate term goal and is discouraging to those reading the report: p. 176/186 "The TMDL target scenario results in a large reduction in the total sediment export at Jordan. The average annual load (over water years 2001-2006) is reduced to 86,375 tons/yr, or only 10 percent of the baseline load for existing conditions." Instead, substitute the intermediate goals of **a. Water quality standards will be met for the impaired reaches of the Minnesota River west of Mankato by 2025. b. A 50% reduction in sediment load at Jordan will be achieved by 2030 in order to achieve the TSS standard for the South Metro Mississippi River and Lake Pepin.**

4. The reader of the two concurrent Draft TMDL reports (Minnesota River, and South Metro Mississippi River) will be easily confused by the selection of Scenario 5 in the Minnesota River Turbidity TMDL report (p. 173/183), while Scenario 4 is cited as the reference scenario for the MN River in the South Metro Mississippi River TSS TMDL report (p. 47/57). How can that be reconciled? At a minimum, some statement needs to be in both reports explaining the dichotomy.

5. The implementation planning section of the report does not address who will be responsible for HUC 8 planning and implementation in the absence of watershed districts or other watershed organizations with the capacity and authority to manage it. Weak organization at the HUC 8 should be addressed and dealt with in the report. Part of the implementation plan should be development of watershed districts or watershed organizations with similar capacity and authority at the major watershed level. Absent that, there is little chance of successful planning and implementation.