

Tualatin River TMDL Milestones

- August 16, 1986** Northwest Environmental Defense Center [NEDC] sends a Clean Water Act 60-day notice to the Environmental Protection Agency [EPA], based on failure of the Department of Environmental Quality [DEQ] to complete TMDL's [Total Maximum Daily Load] in Oregon.
- December 12, 1986** NEDC and Jack Churchill file suit in Federal District Court in Oregon, under the Clean Water Act, against EPA and its administrator Lee Thomas, based on DEQ failure to set TMDL's. Case name is NEDC v. Thomas. Complaint identifies Tualatin River as one of the many waters needing TMDL's.
- January 6, 1987** NEDC sends a second Clean Water Act 60-day notice to EPA for DEQ failure to set TMDL's in Oregon. Notice specifically identifies the Tualatin River.
- June 3, 1987** Consent Decree in NEDC v. Thomas entered by court. Decree requires DEQ/EPA to complete a Loading Capacity analysis for the Tualatin River and submit it to EPA by May 1987. Tualatin is first water on list of required TMDL work. The Decree also requires DEQ/EPA to complete adoption of TMDL's for all waters listed then and in the future by DEQ as Water Quality Limited, at the rate of 20% of all Water Quality Limited Streams annually.
- 1988** **Oregon Administrative Rule, 340-41-470, sets criteria for ammonia and phosphorus TMDL's for the main stem and 5 tributaries. The criteria must be achieved by June 30, 1993.**
- 1988** NEDC gives a Clean Water Act 60-day notice to USA for failure to comply with NPDES permits and unauthorized discharges. Over 13,800 treatment plant violations are sited.
- December 1988** NEDC, Tualatin Riverkeepers (a predecessor organization not affiliated with the present TRK), Lower Tualatin Valley Home Owners Association, Tualatin Dam Park Home Owners League, and others file suit in federal court against USA. Case name is NEDC v. USA.
- 1989** TMDL's, Waste Load Allocations [WLA's], Load Allocations [LA's] for the Tualatin River established by DEQ and approved by EPA, for ammonia and phosphorus.
- August 2, 1990** A Consent Decree in NEDC v. USA is entered. Requires submission by USA of a draft compliance schedule for compliance with NPDES permit by 12/1/90 and creation by DEQ of a final compliance schedule due by 12/29/90.
- 1992** USA achieves WLA's for treatment plant discharges.
- 1993** As the June 30th deadline approaches, **USA and DEQ prepare a "nonpoint source compliance order"* that does not include a requirement for compliance of the Load Allocations for nonpoint.** The Environmental Quality Commission [EQC]

approves this “compliance order/schedule” for 18-months.

- Nov. 1995** **EQC extends the “Non-Point Source Compliance Order”** for an additional 18 months. DEQ appoints a Technical Advisory Committee.
- 1997** **EQC again extends the “Non-point Source Compliance Order”**, this time for 6 months. DEQ appoints a Policy Advisory Committee. The Designated Management Agencies through USA hire staff to facilitate and set the agenda for those meetings.
- February 27, 1998** A Subcommittee on TMDL Implementation issues a report to DEQ clarifying persistent confusion regarding natural vs. human caused sources of phosphorus and the relationship of TMDL’s to water quality programs of the DMA’s, particularly municipal storm water.
- April 4, 1998** **EQC extends the “Non-point Source Compliance Order” for one month** and directs DEQ to provide a plan and schedule for implementing TMDL’s for the Tualatin. The EQC further directed DEQ to incorporate the recommendations developed by the TMDL Subcommittee of the Tualatin Basin Policy Advisory Committee.
- June 11, 1998** **EQC adopts a new “Compliance Order” that must be implemented by July 1999.** Rather than laying out an actual schedule by which separate storm water Waste Load Allocations will be met, the “Compliance Order” describes **a process for developing a new implementation program**, updating existing WLA’s for phosphorus and ammonia and developing additional TMDL’s for temperature, pH, bacteria.
- June 1999** **EQC extends “Compliance Order” until December 2000.**
- March 2000** Tualatin Riverkeepers sends EPA a 60 day notice of intent to sue under the Clean Water Act.
- June 2000** Tualatin Riverkeepers file a lawsuit in Federal District Court against EPA for failure to enforce the Clean Water Act.
- 2001** Judge ultimately dismisses Tualatin Riverkeepers’ case concluding that the EPA does not have a mandatory duty to enforce the CWA.
- Jan. 2001** DEQ submits second iteration of Tualatin TMDL to EPA.
- March 2001** **EQC repeals the Tualatin TMDL rule.** DEQ continues work on development of more comprehensive TMDL administrative rule for the state.
- May 2001** NMFS consultation concludes TMDL may affect, but is not likely to affect listed species.

- August 2001** EPA approves Tualatin TMDL and provides funding for DEQ to convene a TMDL MS 4 work group.
- May 2002** DEQ TMDL – MS 4 work group begins meeting.

Summary

- **Oregon Administrative Rules require that the TMDL criteria for phosphorus and ammonia be met by June 30, 1993.**
- **In 1993 USA and DEQ prepare a “non-point source compliance order” which does not include a requirement for compliance with the storm water waste load allocations.**
- **The “compliance order” was extended five times over the course the next seven years and never included a schedule to achieve the storm water waste load allocations.**

*Note: The separate storm water sewerage system was wrongly defined as a nonpoint source in the “nonpoint source compliance order”.

Compiled and updated by Tualatin Riverkeepers, June 2002.