



**Total Maximum Daily Loads
for the
White River-Hat Creek Basin
(Segment WH1-20000)**

Parameter of Concern: *E. coli* Bacteria

**Nebraska Department of Environmental Quality
Planning Unit, Water Quality Division**

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Executive Summary

One segment in the White River-Hat Creek Basin was included in the 2004 Nebraska Surface Water Quality Integrated Report (NDEQ 2004) in Category 5 as impaired by excessive *E. coli*. As such a total maximum daily load must be developed in accordance with the Clean Water Act. In 2002, the Department opted to convert from fecal coliform to *E. coli* bacteria as the indicator for primary contact recreation assessment. This document presents the TMDL for *E. coli* that is designed to allow the White River-Hat Creek Basin segment to fully support the primary contact recreation beneficial use. The information contained herein should be considered one TMDL.

These TMDLs have been prepared to comply with the current (1992) regulations found at 40 CFR Part 130.7.

1. Name and geographic location of the impaired waterbody for which the TMDL is being developed.

White River-Hat Creek basin: WH1-20000

2. Identification of the pollutant and applicable water quality standard

The pollutant causing the impairment of the water quality standard and designated beneficial use is *E. coli* bacteria. Designated uses assigned to the above-identified segments include: primary contact recreation, aquatic life Coldwater Class B, agriculture and public water supply class A and aesthetics (NDEQ 2002c). Excessive *E. coli* has been determined to be impairing the primary contact recreation beneficial uses. The applicable water quality criteria are a recreation season (May 1-September 30) geometric mean of 126/100 ml for *E. coli*.

3. Quantification of the pollutant load that may be present in the waterbody and still allows attainment and maintenance of the water quality standards.

The allowable pollutant load is based upon the available stream flow volume. That is, loading capacities are developed for each flow by multiplying the water quality standard (WQS) by the selected stream flow and a conversion factor (C) with the equation being:

$$\text{Loading capacity} = \text{WQS} * \text{Flow} * C$$

4. Quantification of the amount or degree by which the current pollutant load in the waterbody, including upstream sources that is being accounted for as background loading deviates from the pollutant load needed to attain and maintain water quality standards.

Segment	<i>E. coli</i> - # colonies >126/100 ml
WH1-20000	37

5. Identification of the pollutant source categories.

Both point and nonpoint sources (including natural sources) have been identified to be contributing to the pollutant loads being delivered to the White River-Hat Creek Basin segment.

6. Wasteload allocations for pollutants from point sources.

The wasteload allocations for point source discharges will be equivalent to the water quality criteria associated with the primary contact recreation beneficial use. Therefore, the WLA is a monthly geometric mean of 126/100 ml.

7. Load allocations for pollutants from nonpoint sources.

The load allocations assigned to these TMDLs will be based upon the stream flow volume and will be defined as:

$$LA_i = Q_i * 126/100 \text{ ml} * C$$

Where:

LA_i = load allocations at the i^{th} flow

Q_i = stream flow at the i^{th} flow

126/100 ml = applicable/target water quality criteria for *E. coli* from Title 117

C = conversion factor

8 A margin of safety.

This TMDL contains an implicit and explicit margin of safety. Specifically, decay/die-off from the potential source to the recreational segment was not included in the pollutant source evaluation, all point sources were assumed to be discharging the expected concentration. As well, the targeted reduction will focus on achieving 90% of the water quality target ($\leq 113/100$ ml).

9. Consideration for seasonal variation.

The water quality criteria are only applicable during the Title 117 defined recreation season that starts May 1 and ends September 30. Because of this, the water quality and stream volume data was limited to this time period.

10. Allowances for reasonably foreseeable increases in pollutant loads.

There was no allowance for future growth included in these TMDLs.

11. Implementation Plan

Implementation of the reductions for *E. coli* will be carried out through a combination of regulatory and non-regulatory activities. Point sources will be regulated under the auspice of the National Pollutant Discharge Elimination System and the Rules and Regulations Pertaining to Livestock Waste Control. Nonpoint source pollution will be addressed using available programs, technical advice, information and educations and financial incentives such as cost share.

The TMDLs included in the following text can be considered “phased TMDLs” and as such are an iterative approach to managing water quality based on the feedback mechanism of implementing a required monitoring plan that will determine the adequacy of load reductions to meet water quality standards and revision of the TMDL in the future if necessary. A description of the future monitoring (Section 4.0) that is planned has been included.

Monitoring is essential to all TMDLs in order to:

- Assess the future beneficial use status;
- Determine if the water quality is improving, degrading or remaining status quo;
- Evaluate the effectiveness of implemented best management practices.

The additional data collected should be used to determine if the implemented TMDLs has been or is effective in addressing the identified water quality impairments. As well the data and information can be used to determine if the TMDLs have accurately identified the required components (i.e. loading capacity, load allocations, etc.) and if revisions are appropriate.

1.0 Introduction

One segment in the White River-Hat Creek Basin was listed in Category 5 of the 2004 Nebraska Surface Water Quality Integrated Report (Integrated Report) (NDEQ 2004). Category 5 waterbodies are deemed impaired and in need of a TMDL. Data collected in 2003 indicate the primary contact recreation beneficial use is impaired with the pollutant of concern being *E. coli* bacteria. Table 1 below provides information on the 2002 Section 303(d) (NDEQ 2002a) list and the 2004 Integrated Report assessments for the segment in the White River-Hat Creek Basin designated with the primary contact recreation beneficial use.

Table 1. Section 303(d) Listing Summary for the White River-Hat Creek Basin in 2002 and 2004

Segment ID	2002 Section 303(d) list	2004 Integrated Report
WH1-20000	Part 5	Category 5

Based on the above, and as required by Section 303(d) of the Clean Water Act and 40 CFR Part 130, TMDLs have been developed for the impaired waterbody of the White River-Hat Creek Basin identified in Category 5 of the 2004 Nebraska Integrated Report. The information contain herein should be considered one TMDL.

1.1 Background Information

The White River-Hat Creek Basin located in extreme northwestern Nebraska (Figure 1.1) originates in Nebraska and heads in a northeastern pattern to a confluence with the Missouri River (White River) and the Cheyenne River (Hat Creek) in South Dakota. Stream flow in the basin is a function of surface run-off and groundwater contributions. Three municipalities reside in the basin ranging from first-class cities to villages.

1.1.1 Waterbody Information

1.1.1.1 Waterbody Name and Stream Identification Number: White River – WH1-20000

1.1.1.2 Major River Basin: Missouri

1.1.1.3 Minor River Basin: White River

1.1.1.4 Hydrologic Unit Code: 10140201

1.1.1.5 Assigned Beneficial Uses: Primary Contact Recreation, Aquatic Life Coldwater Class B, Public Drinking Water Supply, Agriculture Class A, Aesthetics. Key aquatic species identified: Brown Trout, Rainbow Trout. Source Title 117 Nebraska Surface Water Quality Standards (Title 117)

1.1.1.6 Major Tributaries: White Clay Creek and Soldiers Creek

1.1.2 Watershed Characteristics

1.1.2.1 Physical Features: The White River-Hat Creek Basin watershed encompasses approximately 2,130 mi², originates in the far northwest corner of the state and flows northeast into South Dakota. The ecoregions of the basin include the Western High Plains and the Northwestern Great Plains (Chapman, et. al. 2001). Agriculture is the major land use with approximately 55% of the basin in rangeland or pasture and 15% in cropland (NDEQ 2002b).

Figure 1.1 Location of the Nebraska White River-Hat Creek Basin

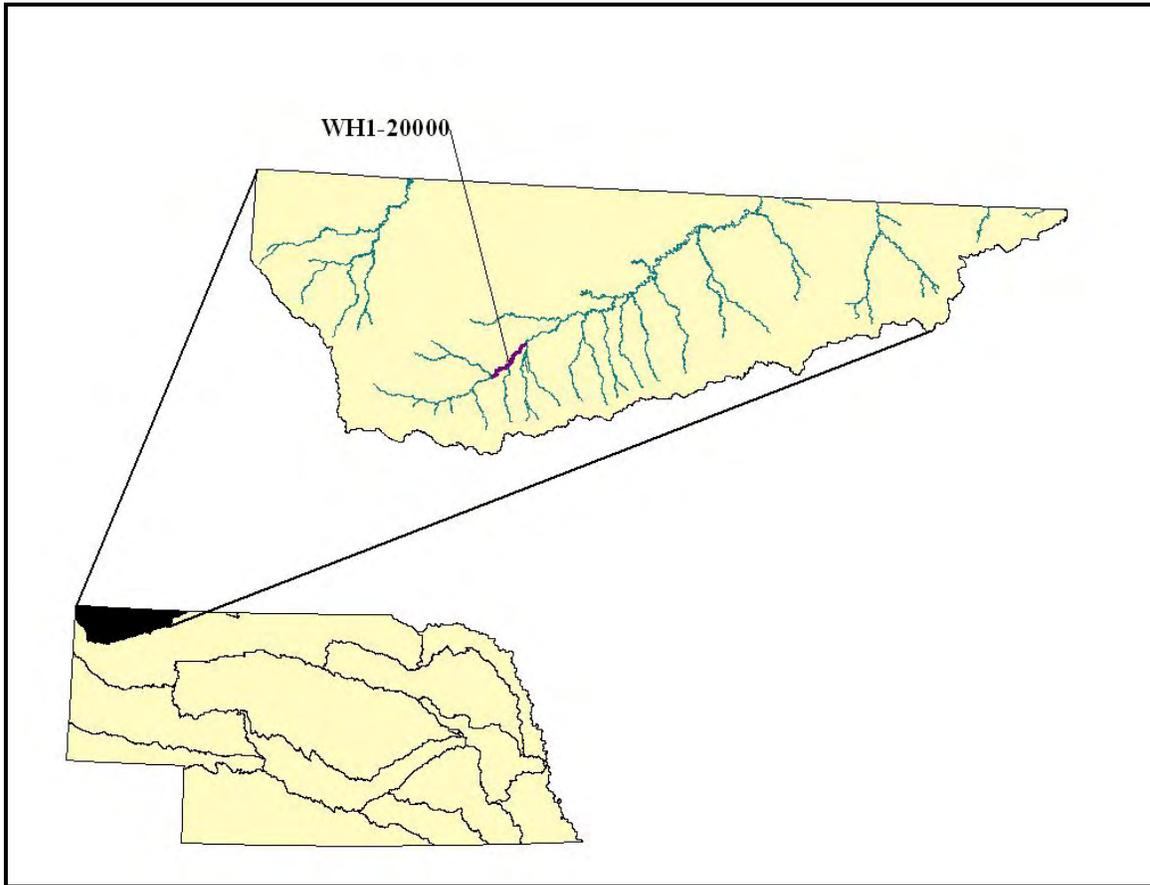


Table 1.1 Physical Description of the White River-Hat Creek Basin

Parameter	White River-Hat Creek Basin
State	Nebraska
Counties (whole or in part)	Dawes, Sheridan and Sioux
Watershed Area	2,130 mi ²
Sub-basins	2
Designated Stream Segments	64
Stream Miles (designated)	636 miles

Topographically, the basin is one of the roughest in the state. The southern tributaries head in the Pine Ridge, a massive sandstone escarpment which forms the northern boundary of the high plains. In the upper reaches, most of the streams are well entrenched forming an area of rough land. Tributaries of the north and west cross a gentle sloping area marked with clay hills and associated badlands (NNRC 1976).

Streams that originate in the Pine Ridge are generally spring fed and continue to flow during periods of low precipitation. Other streams, especially those that originate in the badlands, generally flow only from direct surface run-off. Some streams in the White River and Hat Creek watersheds in the upper reaches are perennial and spring fed, but become intermittent downstream. Throughout the basin runoff is generally rapid due to the steep slopes and relatively impermeable soils (NDEQ 200b).

1.1.2.2 Climate: Average precipitation in the basin is approximately 16 inches. Typically, a majority of the precipitation occurs during the spring and early summer. Temperatures in the basin range from an average high in the upper 80's during the summer to average lows in the 10's during the winter (NRC Databank).

1.1.2.3 Demographics: Three municipal communities reside in the White-Hat River basin boundaries and range from first class cities to villages. The communities include: Chadron – population 6,334, Crawford – population 1,107 and Whitney – population 87.

1.1.2.4 Land Use: Of the total 1,360,000 acres in the basin, about 1,270,000 acres are classified as agricultural land, but only about 500,000 acres are classified as arable and about 225,000 acres, mostly in small scattered tracts, are classified as suitable for irrigation. The native vegetation present in the basin includes Dakota prairie, shortgrass prairie and Rocky Mountain forest.

Four soil associations are found in the basin and have developed from shale, loess and alluvium and sandstone (NNRC 1976).

2.0 *E. coli* TMDL

2.1 Problem Identification

Segment WH1-20000 was included on Category 5 of the 2004 Integrated Report as having an impaired primary contact recreation beneficial use with the parameter of concern being *E. coli* bacteria. This section deals with the extent and nature of the water quality impairments caused by excessive *E. coli* bacteria in the White River-Hat Creek Basin.

2.1.1 Water Quality Criteria Violated and/or Beneficial Uses Impaired

The Primary Contact Recreation beneficial use has been deemed impaired on the above-identified segments. The Primary Contact Recreation beneficial use applies to surface waters which are used or have the potential to be used for primary contact recreation that includes activities where the body may come into prolonged or intimate contact with the water such that water may be accidentally ingested or sensitive body organs (e.g. eyes, ears, nose) may be exposed (NDEQ 2002c).

2.1.2 Data Sources

The Nebraska Department of Environmental Quality (NDEQ) monitors surface waters based upon a rotating basin scheme, whereby monitoring is limited to two or three river basins each year with all 13 basins being (partially) examined in a five year period. Under the auspice of the rotating basin plan, data was collected from the White River-Hat Creek basin in 1998 and 2003. Data collected in 2003 included stream flow (volume) information and will be used for this TMDL. Stream flow data and information were obtained from the Nebraska Department of Natural Resources (NDNR) who operates the monitoring gage.

During the triennial review of Title 117 – Nebraska Surface Water Quality Standards (Title 117), conducted in 2002, the Department proposed and ultimately received EPA approval to add *E. coli* as a parameter to assess primary contact recreation. The change was pursued based on EPA recommendations that states adopt the *E. coli* indicator, as the organism is more scientifically defensible than fecal coliform. It is the Department's intention to remove fecal coliform as a Title 117 parameter in the future.

With the adoption of *E. coli* as the parameter to assess the recreation use and the advances of analytical techniques; fecal coliform data was not obtained during 2003. Because fecal coliform will be removed as criteria in the future, these TMDLs will focus on the attainment of the primary contact recreation beneficial use, using only *E. coli*.

2.1.3 Water Quality Assessment

Water quality data assessments were based upon the beneficial use assessment procedures used to identify Category 5/impaired waters for the 2004 Integrated Report. The procedures are based on the application of the “binomial distribution” method that applies a confidence interval to the exceedance rate in an effort to determine the true exceedance of the waterbody versus the data set. A complete description of the water quality data assessment procedures can be found in the *Methodologies for Waterbody Assessments and Development the 2004 Integrated Report for Nebraska*, October 2003.

The details of the assessment process to determine the use support of the Primary Contact Recreation beneficial use can be found in table 2.1.3

Table 2.1.3 Assessment of the Primary Contact Recreation Beneficial Use Using Fecal Coliform and *E. coli* Bacteria Data

Parameter	Season Geometric Mean	Single Sample Maximum	Supported	Impaired
Fecal coliform	≤200/100 ml	No more that 10% of Samples >400/100 ml	Season geometric mean ≤200/100 ml or ≤10% of samples exceed 400/100ml	Season geometric mean >200/100 ml and/or >10% of samples exceed 400/100ml
<i>E. coli</i>	≤126/100 ml	235-576/100 ml depending upon frequency of use	Season geometric mean ≤126/100 ml	Season geometric mean >126/100 ml

2.1.4 Water Quality Conditions

E. coli data collected during the 2003 recreation season (May through September) was assessed to determine the beneficial use support for primary contact recreation. Table 2.1.4 presents this information.

Table 2.1.4 White River-Hat Creek Basin – 2003 *E. coli* Data and Assessments – Category 5 Waterbodies

Segment	Site Location	DNR Gage Associated with Site	Number of Samples	Season Geometric Mean (#/100 ml)
WH1-20000	White River at Crawford	06444000	22	163

2.1.5 Potential Pollutant Sources

2.1.5.1 Point Sources: Point sources discharge or have the potential to discharge to waters in the White River Hat Creek basin. Facility types include: municipal wastewater treatment facilities and confined animal feeding operations. The facilities that have been issued a National Pollutant Discharge Elimination System Permit (according to EPA's Permit Compliance System) in the White River-Hat Creek Basin are shown in Figure 2.1.5.1a.

Illicit connections, discharges, combined sewer overflows; sanitary sewer overflows, straight pipes from septic tanks or other on-site wastewater systems can also be sources of *E. coli* bacteria.

Animal feeding operations that have been issued State of Nebraska permits, required for construction and operation of livestock waste control facilities (LWCF) if the operation has discharged, or has the potential to discharge, livestock waste to waters of the State are also considered potential sources. Figure 2.1.5.1b shows the facilities within the White River-Hat Creek Basin that have been issued or requested a permit. These facilities are designed to contain any run-off that is generated by storm events that are less in intensity than the 25 year, 24-hour rainfall.

2.1.5.2 Nonpoint Sources: Several nonpoint sources of *E. coli* exist in the White River-Hat Creek Basin. These sources include: failing septic tanks or other on-site wastewater systems, run-off from livestock pastures, improper or over-application of biosolids (wastewater treatment facility sludge, septage or manure) and urban stormwater runoff not regulated by an NPDES permit.

2.1.5.3 Natural Sources: The primary natural source of *E. coli* is wildlife. A variety of wildlife is native to or have adapted to the diverse habitat of the White River-Hat Creek Basin. Big game, upland game, furbearers, waterfowl and non-game species have been documented to reside within the basin.

2.2 TMDL Endpoint

The endpoint for these TMDLs will be based on the numeric criteria associated with the Primary Contact Recreation beneficial use.

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2.2.1 Numeric Water Quality Criteria

Water quality criteria established for the protection of the Primary Contact Recreation beneficial use can be found in Title 117, Chapter 4 and are as follows:

Fecal Coliform

Bacteria of the Fecal coliform group shall not exceed a geometric mean of 200/100 ml, nor exceed 400/100 ml, in more than 10% of the samples. These criteria are based upon a minimum of 5 samples taken within a 30-day period. This does not preclude fecal coliform limitations based on effluent guidelines.

These criteria apply during the recreational period of May 1 through September 30.

Figure 2.1.5.1a NPDES Permitted Facilities in the White River-Hat Creek Basin



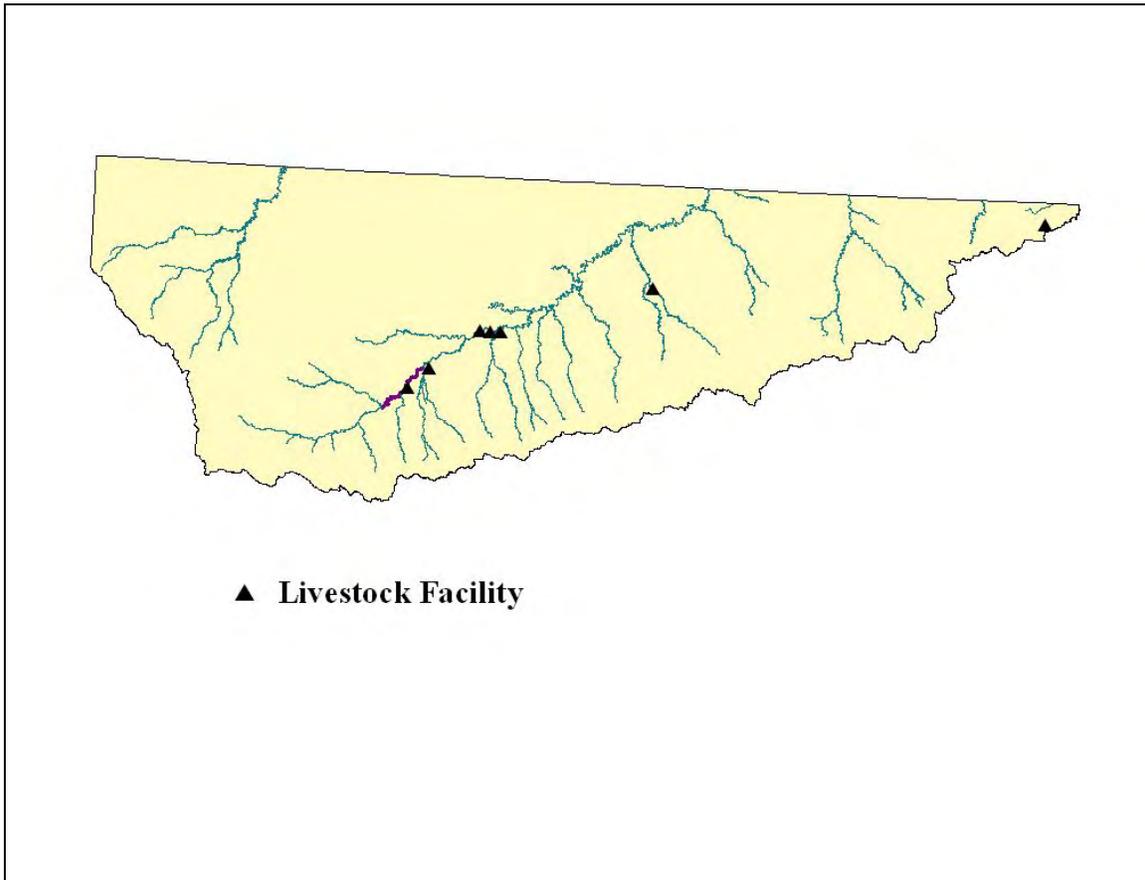
E. coli

E. coli bacteria shall not exceed a geometric mean of 126/100 ml. For increased confidence of the criteria, the geometric mean should be based on a minimum of five samples taken within a 30-day period. This does not preclude fecal coliform limitations based on effluent guidelines. Single sample minimum allowable densities shall not exceed the following criteria.

- 235/100 ml at designated bathing beaches
- 298/100 ml at moderately used recreational waters
- 406/100 ml at lightly used recreational waters
- 576/100 ml at infrequently used recreational waters

The November 16, 2004 Federal Register (Volume 69, No. 220) contained information regarding the final rule for “Water Quality Standards for Coastal and Great Lakes Recreational Waters”. This rule includes a discussion on the use of the single season maximum (SSM). Specifically:

Figure 2.1.5.1b Animal Feeding Operations in the White River-Hat Creek Basin Issued or Requesting a State Construction or Operating Permit or Requesting an Inspection



“EPA expects that the single season maximum values would be used for making beach notification and closure decisions. EPA recognizes however that States and Territories also use criteria in their water quality standards for other purposes under the Clean Water Act in order to protect and improve water quality. Other than in the beach notification and closure decision context, the geometric mean is the more relevant value for ensuring that appropriate actions are taken to protect and improve water quality because it is a more reliable measure, being less subject to random variation and more directly linked to the underlying studies on which the 1986 criteria were based.

Given this discussion and recommendation regarding the use of single season maximum in TMDLs and waterbody assessments, these TMDLs will focus on meeting the *E. coli* recreation season geometric mean of 126/100 ml.

2.2.2 Selection of Critical Environmental Conditions

The water quality criteria associated with the Primary Contact Recreation beneficial use only applies from May 1 through September 30. Therefore, the critical conditions for these TMDLs will be those occurring from May 1 through September 30.

2.2.3 Waterbody Pollutant Loading Capacity

Defining waterbody pollutant loading capacity implies a steady state. The TMDL recognizes loadings are dynamic and can vary with stream flow. As well, the above section indicates a wide range of environmental conditions that must be accounted for.

The method chosen to account for the variation in flow is based upon a load duration (TMDL) curve. TMDL curves are initiated by the development a stream's hydrograph using the long-term gage information. The flow information (curve) is then translated into a load curve by multiplying the flow values by the water quality standard (WQS) and a conversion factor (C). The acceptable "load" is then plotted graphically.

Therefore, the loading capacity for each of the segments will be defined by:

$$\text{Loading capacity} = \text{WQS} * \text{Flow} * C$$

2.3 Pollutant Source Assessment

For these TMDLs the source loading is based upon the position of the monitoring data points in relation to the boundary established on the TMDL curve between point source and nonpoint source influences. This process for selecting the load point is described in the document entitled Nebraska's Approach for Developing TMDLs for Streams Using the Load Duration Curve Methodology (NDEQ 2002d). In the situation where a boundary has not been included on a TMDL curve, the information indicates no point source facilities discharge to the contributing watershed. For these waterbodies, the pollutant will be considered derived from nonpoint and natural sources.

2.3.1 Existing Pollutant Conditions

The existing pollutant conditions are shown in the TMDL curve (Figure 2.3.1) provided for the segment where the TMDL is being developed. The points plotted above the acceptable loading indicate a deviance from the water quality criteria.

2.3.2 Deviation from Acceptable Pollutant Loading Capacity

Table 2.3.2 describes the deviation from the acceptable water quality standards based upon the 2003 *E. coli* monitoring information.

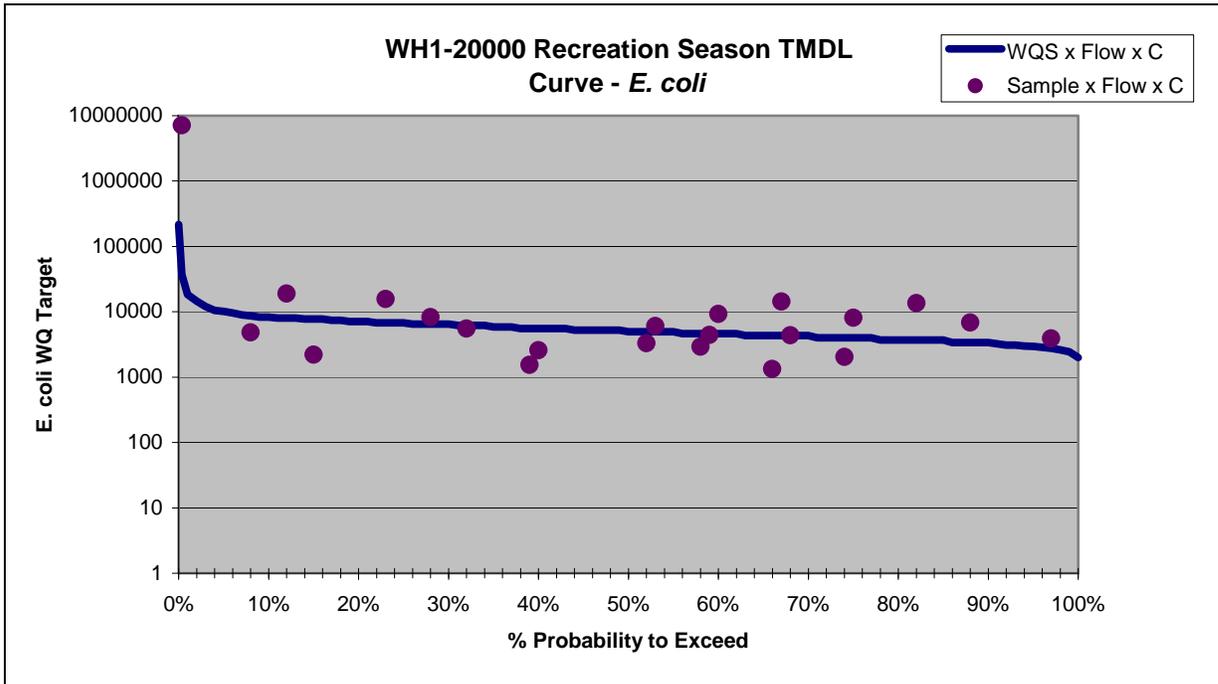
Table 2.3.2 Deviation From the Applicable Water Quality Criteria

Segment	Observed Season Geometric Mean (#/100 ml)	#/100 ml Above WQS
WH1-20000	163	37

2.3.3 Identification of Pollutant Sources

Both point and nonpoint sources are known to exist along the segment and within the contributing watersheds. Due to the size of the watersheds, the somewhat limited data, the delivery methods and the location of the potential sources in relation to the impaired waterbody; it is difficult to definitively identify specific sources. It is important to note that all potential sources may not contribute to the water quality impairments and some sources may contribute at a greater degree than others.

Figure 2.3.1 TMDL Curve for WH1-20000



The method utilized to determine the contributions of the sources will be based upon a demarcation where point source discharges are not expected to further impact the waterbody. That is, based on the concept of a continuous and relatively constant effluent volume, a dilution or flow value can be determined where point sources are no longer expected to contribute to water quality excursions. The process is explained in the document entitled Nebraska's Approach for Developing TMDLs for Streams Using the Load Duration Curve Methodology.

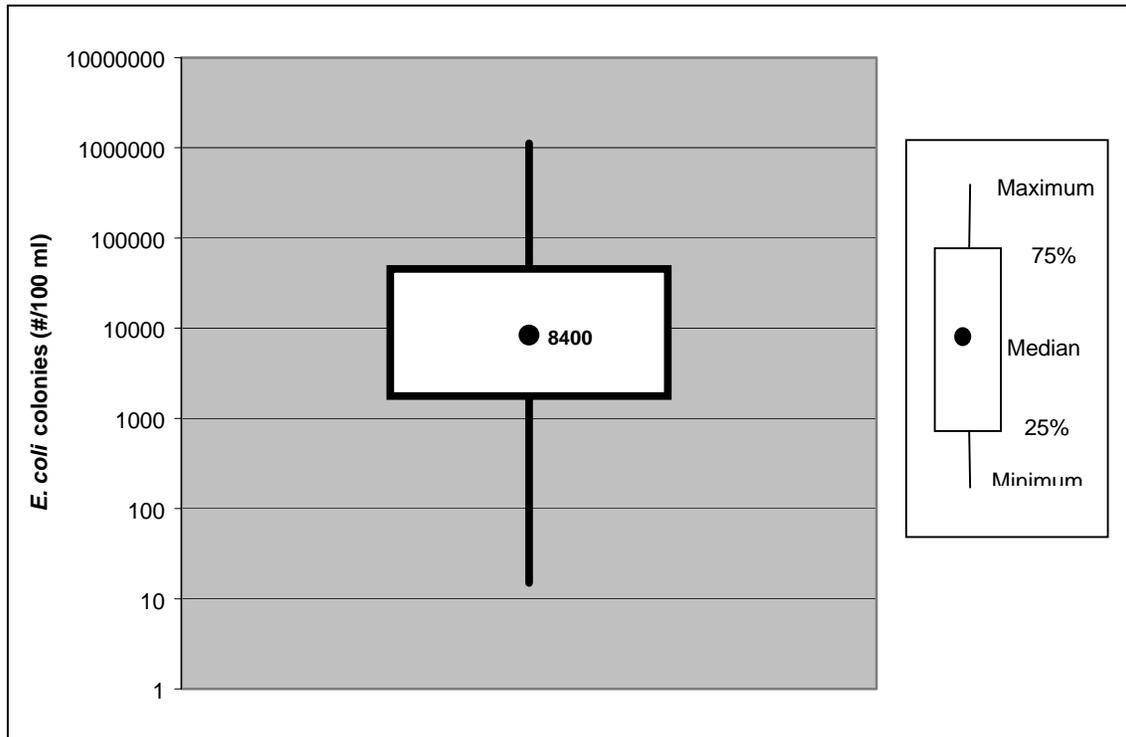
E. coli concentrations in wastewater can vary greatly, depending upon treatment technology, wastewater strength, industrial contributions, treatment efficiency and season. The selection of an all-encompassing effluent density value must then account for these and other variables. To that end, the NDEQ has collected effluent *E. coli* information from several facilities not providing disinfection of the wastewater discharge. The data was obtained from 24 facilities that include both mechanical and lagoon facilities and as seen in Figure 2.3.3a, exhibits a normal distribution. The median value was selected as the input for the "expected pollutant concentration". The equation to determine the point source/nonpoint source boundary then becomes:

$$Q_s = (8,400/100 \text{ ml} * \Sigma Q_e) / 126/100 \text{ ml}$$

Where:

- Q_s = stream flow volume necessary to meet water quality standards
- 8,400/100 ml = expected *E. coli* coliform density from point sources
- ΣQ_e = sum of **all** design flows from point sources discharging to the segment (direct or via tributaries)
- 126/100 ml = water quality standard

Figure 2.3.3a. *E. coli* Data from 24 Wastewater Treatment Facilities



The values for ΣQ_e can be found in Table 2.3.3 as can the boundary flows.

Table 2.3.3 Sum of Wastewater Treatment Facility Design Flows in the White River-Hat Creek Basin

Segment	Total Number of Facilities	Sum of Contributing Facility Design Flows	Flow Value for Point vs. Nonpoint Boundary
WH1-20000	1	0.39 cfs	26 cfs

The identification of pollutant sources and impacts are shown in figures 2.3.3b.

2.3.3.1 Point Sources of *E. coli*: Based upon the TMDL curves and the position of the monitoring data points it appears point sources are contributing to the *E. coli* impairment within segment WH1-20000. The facilities that discharges directly to the White River recreation segment is listed in Table 2.3.3.1.

2.3.3.2 Nonpoint and Natural Sources of *E. coli*: Due to the diverse nature, distribution and delivery method, nonpoint and natural sources will not be separated. Therefore, the monitoring data that fall to the left of the boundary are considered to be the result of nonpoint and natural background sources.

The source identification process utilized was done so in order to get a general idea of the source category. This simplified numeric process should not be considered exclusive as an overlap of source contributions is recognized during periods where run-off is contributing to stream volume. In the future, expanded sampling may target specific source identification. Future monitoring and assessment will also take into account the controls (i.e. wastewater disinfection) that have been instituted. When considered, the demarcation may fluctuate and the source contributions re-evaluated.

Figure 2.3.3b. Identification of Pollutant Sources Using the TMDL Curve for WH1-20000

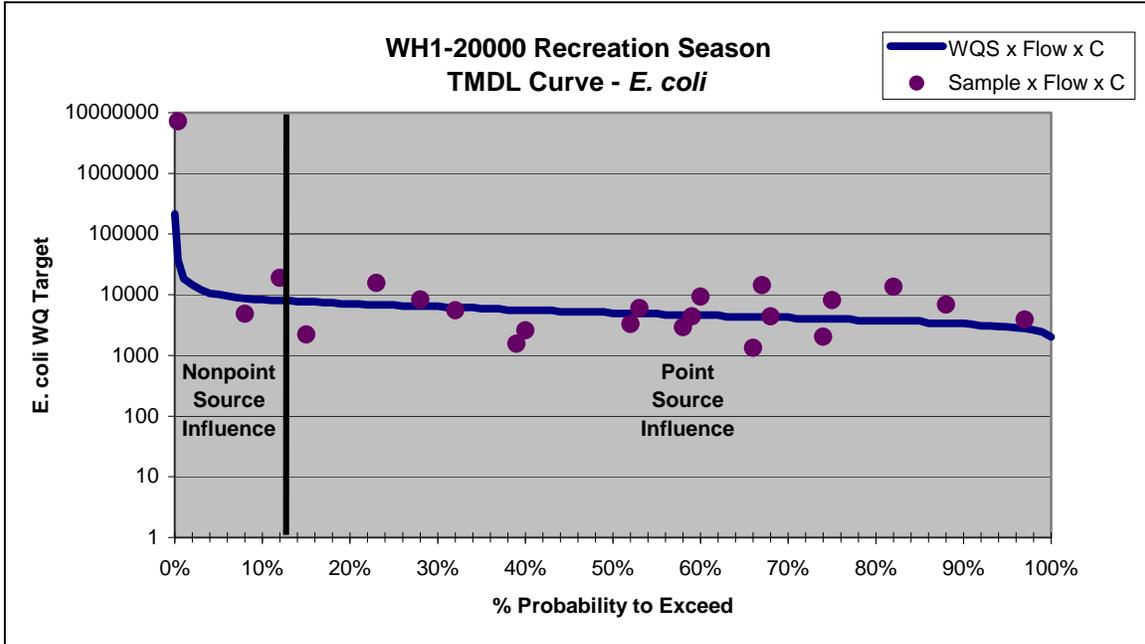


Table 2.3.3.1 NPDES Permitted Discharges to White River-Hat Creek Basin Impaired Segments

Recreation Segment	Receiving Water	Facility	NPDES Permit Number	Facility Design Flow (cfs)	Facility Discharge Directly to Recreation Segment?	Fecal coliform Limits in NPDES permit?
WH1-20000	WH1-20000	Crawford WWTF	NE0039799	0.25	Yes	Yes

2.4 Pollutant Allocation

A TMDL is defined as:

$$\text{TMDL} = \text{Loading Capacity} = \text{WLA} + \text{LA} + \text{Background} + \text{MOS}$$

As stated above, the loading capacity is based upon flow position in the hydrograph and is defined by:

$$\text{Load Capacity} = \text{Flow} \times 126/100 \text{ ml} \times \text{C}$$

Where:

Flow = Stream flow volume (cubic feet per second)

126/100 ml = applicable/target water quality criteria for *E. coli* from Title 117

C = conversion factor.

By regulation, a TMDL requires a loading capacity value for the pollutant of concern. In the case of *E. coli*, a "load" (flow rate x concentration x time) could be calculated, but the approach may not be appropriate for expressing this non-conservative parameter. Therefore, for the purposes of these TMDLs, a loading capacity will not be "calculated" but will be expressed as the water quality standard. Because the water quality is expressed as a concentration, the LC will not equal the WLA + the LA.

To achieve the desired loading capacities requires the following allocations:

2.4.1 Wasteload Allocations

2.4.1.1 NPDES Permitted Facilities: Title 117 does not allow for the application of a mixing zone for the initial assimilation of effluents in order to meet the criteria associated with the recreation beneficial use. Because of this, the water quality criteria are applied to the "end-of-pipe" concentrations and are applicable at all stream flows $>7q_{10}$. Therefore, the *E. coli* wasteload allocation established by this TMDL will be a monthly geometric mean 126/100 ml.

The wasteload allocation will initially be applied to all facilities that discharge directly to a recreational segment. Future monitoring and evaluation will be utilized to determine if *E. coli* limitations are necessary for facilities discharging to the recreation segment's tributaries.

2.4.1.2 Dry Weather Discharges: Dry weather discharges can either be from illicit sources, cross-connections or mechanical failure and often exhibit the greatest influence on the base flow conditions of the stream. Thus, it is most appropriate to group these discharges and limit similarly to the WWTFs. Specifically, the wasteload allocations assigned to these discharges shall be a seasonal geometric mean of 126/100 ml.

2.1.4.3 Non-Discharging Facilities: Several facilities including confined animal feeding operations and lagoons are designed for "zero" discharge. In the case of animal feeding operations, discharges may only occur as the result of a 25 year 24 hour storm event or a chronic wet period with an accumulative precipitation equivalent to a 25 year 24 hour storm. Based on this permitting provision, the WLA for facilities classified as non-discharging will be zero (0).

2.4.2 Load Allocations

The load allocations assigned to these TMDLs will be based upon the stream flow volume and will be defined as:

$$LA_i = Q_i * 126/100 \text{ ml} * C$$

Where:

LA_i = load allocations at the i^{th} flow

Q_i = stream flow at the i^{th} flow

126/100 ml = applicable/target water quality criteria for *E. coli* from Title 117

C = conversion factor

2.4.2.1 Load Reduction to Meet Water Quality Criteria: It is important to report the reductions necessary to meet the water quality criteria. The necessary reductions were determined based upon the 2003 data, which is considered representative information. The targeted reductions found in Table 2.4.2.1 provide water quality managers with a quantitative endpoint by which implementation planning can be carried out. The noted reductions along including the application of point source controls if achieved should result in the waterbodies fully supporting the primary contact recreation beneficial use. The reductions stated in the table also include the margin of safety described below.

Table 2.4.2.1 Targeted Nonpoint Source and Natural Background Reductions

Segment	Target NPS Reduction	Expected Season Geometric Mean
WH1-20000	31%	112/100 ml

2.4.3 Margin of Safety

A margin of safety (MOS) must be incorporated into TMDLs in an attempt to account for uncertainty in the data, analysis or targeted allocations. The MOS can either be explicit or implicit and for these TMDLs are as follows:

- To account for uncertainty in the nonpoint source load reduction, the targeted reductions will be set at 90% of the water quality target (126/100 ml). Specifically the reductions shall be applied to meet a seasonal geometric mean of ≤113/100 ml.
- Decay and/or die off of *E. coli* were not accounted for in either the source assessment or in establishment of the load reduction. That is, the entire concentration/load from the source was assumed to be present within the waterbody and the reductions should focus on the load.
- These TMDLs assumed the effluents discharge the *E. coli* density allowed by the WLA or 126/100 ml. WWTF disinfection systems are often designed and operated to achieve 100% reduction in the indicator bacteria or 0/100ml. Thus, the actual NPDES permitted point source contribution is likely less than expected by the TMDL.

3.0 Implementation Plan

The implementation of controls to manage *E. coli* within the White River-Hat Creek Basin includes but is not limited to:

3.1 NPDES Permitted Point Sources

Limitations are established in NPDES permits in accordance with Title 121 – Effluent Guidelines and Standards (Title 121). Title 121, Chapter 8 states:

Chapter 8 - TEST PROCEDURES FOR ANALYSIS OF POLLUTANTS

001 All of Title 40 Code of Federal Regulations (CFR) Part 136, July, 1990 edition, pertaining to Guidelines Establishing Test Procedures for the Analysis of Pollutants is hereby adopted and incorporated herein.

Based upon this requirement, all samples used to demonstrate permit compliance (sampling method, transport holding, and analysis) must be in accordance with the procedures established in 40 CFR Part 136. At this time, there is no analytical procedure for *E. coli* included in Part 136. It is for this reason; fecal coliform remains in Title 117 as indicator bacteria for primary contact recreation. Although not as reliable as *E. coli*, fecal coliform should continue to be used in the NPDES permitting process. End-of-pipe limits will be set at a monthly geometric mean of 200/100 ml and a daily maximum of 400/100 ml. Compliance with these values will be considered functionally equivalent to meeting the water quality criteria for *E. coli*.

Facilities that discharge directly to all segments within the White River-Hat Creek basin designated with the primary contact recreation use will be required to meet the wasteload allocations – applied as a fecal coliform limit - at the end of the pipe. Facilities discharging to tributaries will be evaluated to determine the extent of the effluent’s impact on the recreation segment. If deemed significant, a request will be made to limit the fecal coliform concentration discharged from these facilities in the NPDES permit.

In addition to the permits, in the course of compliance audits, deficiencies in the operation of the WWTF disinfection appurtenances and noncompliance with the NPDES permit limits should be noted and corrective action pursued.

Biosolids (sludge) generated by municipal and industrial facilities are regulated under 40 CFR Part 257 and 40 CFR Part 503, respectively. 40 CFR part 257 requires that facilities and practices not cause nonpoint source pollution of waters of the United States. Part 503 specifically requires that sludge applications be not less than 10 meters from waters of the United States and that the sludge not be applied to frozen, flooded or snow covered ground if the sludge can enter into waters of the United States.

Consistent with Section 3.4 below, a recommendation will be made that all NPDES permittees be required to adhere to items #1 and #2 for land application activities taking place either during or 10 days prior to the recreation season (May 1 – September 30). In those areas where land slope or drainage is such where the application has a greater potential to run-off, or where application has been observed to have run-off, the recommendation will be consistent with #3

3.2 NPDES Storm Water Discharges

The WLA defined in section 2.4.1.1 will be applicable to all NPDES discharges including discharge from regulated stormwater outfall. The NDEQ is responsible for determining the applicability of NPDES stormwater permits for urbanized areas with populations >10,000 but <100,000. As well, other municipal or construction areas can be designated for coverage under an NPDES (stormwater) permit if the NDEQ determines control of the stormwater is necessary.

Facilities discharging stormwater under the authority of a NPDES permit are required to implement the following minimum control measures:

- Implement a public education and outreach program on stormwater impacts
- Comply with State and local public notice requirements when implementing a public participation program.
- Develop and enforce a program to detect and eliminate illicit discharges.
- Develop, implement and enforce a program to reduce pollutants from construction activities.
- Develop, implement and enforce a program to reduce pollutants from post construction activities in new or redevelopment projects
- Develop a pollution prevention/good housekeeping program.

Rather than apply numeric limitations on individual stormwater outfalls, the strategy will be to initially allow the municipalities sufficient opportunity to comply with the NPDES requirements; either voluntarily or under the authority of an NPDES permit. In the future, should additional monitoring data indicate the minimum control measures are inadequate or have not been incorporated; consideration will be given to application of wasteload allocations for the outfalls in the area of concern.

At this time no MS4 permits have been issued to municipalities residing in the White River-Hat Creek Basin. The issuance of future permits will likely be contingent upon the collection of additional data, the future beneficial use status of the impaired segments and the voluntary actions the candidate facilities have taken to minimize pollutants in the stormwater discharges.

3.3 Dry Weather Discharges

Title 119 – Rules and Regulations Pertaining to the Issuance of Permits Under the National Pollutant Discharge Elimination System, Chapter 2 states:

“All persons discharging pollutants from a point source into any waters of the State are required to apply for and have a permit to discharge.”

Discharges not permitted should be required to obtain the proper authorization to discharge. All discharges are then subject to the appropriate limitations consistent with the WLAs established by this TMDL. Elimination of the discharge should be undertaken in the event permitting and control is not feasible.

3.4 Animal Feeding Operations

Title 130 – Rules and Regulations Pertaining to Livestock Waste Control states:

001 A livestock waste control facility shall be required for an existing or proposed livestock operation of three hundred animal units or larger, when livestock wastes:

001.01 Violate or threaten to violate Title 117 (Neb. Administrative Code (NAC)), Nebraska Surface Water Quality Standards;

001.02 Violate or threaten to violate Title 118 (NAC), Ground Water Quality Standards and Use Classification;

001.03 Discharge into waters of the State; or

001.04 Violate The Nebraska Environmental Protection Act.

002 Any livestock operation less than three hundred animal units is exempt from the permitting process, including the requirement to request an inspection, unless there has been a confirmed discharge into waters of the State, or the Department has determined that because of conditions at the livestock operation there is a high potential for discharge into waters of the State in which case the Department shall notify the owner of the livestock operation by certified mail that the owner is subject to the Livestock Waste Management Act.

When a livestock waste control facility is required the owner/operator must also be issued a construction and/or a state-operating permit. State operating permits require facilities be properly operated and maintained to prevent water pollution and to protect the environment of the State.

Livestock waste control facilities for open lots, by regulation must be designed and constructed to contain all waste generated under conditions less than a 25 year 24 hour precipitation event. Confined animal feeding operations are required to maintain 180 days of storage or a lagoon to treat the waste products. Meeting these permit requirements should equate to “zero” discharge during conditions less than a 25 year 24 hour precipitation event, or a chronic wet period.

Wastewater and biosolids (manure) produced by the animal feeding operations are most often land applied for beneficial reuse. Permitted facilities are required to follow best management practices (BMPs) for the land application as defined in Title 130, Chapter 11. Those BMPs include:

1. Utilize application areas which are under proper conservation treatment to prevent run-off into waters of the State

2. Not apply waste within 30 feet of any stream, lake or impounded waters identified in Chapter 6 and Chapter 7 of Title 117, unless in accordance with an approved comprehensive nutrient management plan
3. When waste is applied within 100 feet of any streams, lakes an impounded waters identified in Chapter 6 and 7 of Title 117, the Department may also require additional buffer and/or vegetative buffers, and that the livestock waste be applied in a manner which reduces potential for run-off of nutrients or pathogens by incorporation, injection of waste or other approved practices.

Based upon the above, it shall be recommended that the NDEQ's Agriculture Section stipulate in the state operating or other permits, for facilities located in the White River-Hat Creek Basin, that the application of livestock waste occurring during or 10 days prior to the Recreation Season (May 1 – September 30) be consistent with the above #1 and #2 and the application setback be the minimum of 30 feet regardless of the status of the comprehensive nutrient management plan. In those areas where land slope or drainage is such where the application has a greater potential to run-off, or where application has been observed to have run-off, the recommendation will be consistent with the requirements of #3 with the minimum setback being 100 feet.

3.5 Exempt Facilities/Other Agricultural Sources

Animal feeding operations are exempt from regulations set forth in Title 130 if:

- The operation is less than 300 animal units
- There has not been a confirmed discharge to waters of the State, or
- The Department has determined that because of conditions at the livestock operation there is **not** a high potential for discharge to waters of the state.

Periodically, the NDEQ will receive a complaint on or a request for an inspection from a facility operating with <300 animal units. Should deficiencies be noted during the on-site visit, the owners/operator will often be given an opportunity to make corrections prior to enforcement or permit action being taken. In the event the efforts at voluntary compliance fail, civil enforcement or the issuance of a permit will be pursued to bring about the necessary corrective measures.

Because these facilities are “non-regulated”, it is difficult to assess the impacts to the environment. As well, pastures or other temporary feeding practices may contribute to the *E. coli* impairments if conditions are such that run-off from the site occurs. In lieu of regulatory requirements, the NDEQ will first look to the USDA-Natural Resource Conservation Service for assistance utilizing programs under the control of the Service such as Conservation Reserve Program, Environmental Quality Incentives Program, Conservation Farm Option, Conservation of Private Grazing Land Initiative, the Wetlands Reserve Program and others that aid in the maintenance and improvement of water quality.

3.6 Section 319 – Nonpoint Source Management Program

The United States Environmental Protection Agency supplies grant funds to states to aid in managing nonpoint source pollution. When grant applications are submitted for review, an effort should be made to include the control of *E. coli* and surface run-off for the proposed projects in the White River-Hat Creek Basin. As well, an effort will be made to redirect applicants to develop proposals consistent with the goals of this TMDL. Preference may be given to those projects that will have a direct reduction in the *E. coli* contributions of nonpoint source discharges.

3.7 Non-Government Organizations

Several non-governmental organizations with an emphasis on agriculture disseminate information to their members on a regular basis. As well, some of the organizations have established environmental education programs to assist in the understanding of environmental regulations and topics. The NDEQ will communicate with these entities in an attempt to utilize the membership distribution process as a means of providing information on the water quality impairments, the TMDL and suggestions to assist in solving the identified problems.

3.8 Reasonable Assurances

The NDEQ is responsible for the issuance of NPDES or state operating permits for industrial and municipal wastewater discharges, regulated stormwater discharges and livestock operations (open lot or confined). Issued permits must be consistent with or more stringent than the wasteload allocations set forth by this TMDL. Compliance with the permit may require construction or modification of a facility and the issued permits may account for this through the inclusion of a compliance schedule or administrative order.

Effective management of nonpoint source pollution in Nebraska necessarily requires a cooperative and coordinated effort by many agencies and organizations, both public and private. Each organization is uniquely equipped to deliver specific services and assistance to the citizens of Nebraska to help reduce the effects of nonpoint source pollution on the State's water resources. While a few of the organizations have been previously identified, Appendix A is a more complete compilation of those entities that may be included in the implementation process. These agencies have been identified as being responsible for program oversight or fund allocation that may be useful in addressing and reducing *E. coli* contributions to the White River-Hat Creek. Participation will depend on the agency/organization's program capabilities.

4.0 Future Monitoring

Future monitoring will generally be consistent with the rotating basin monitoring scheme. That is, annually, two or three river basins in the same geographic location are the focus of the monitoring effort. The White River-Hat Creek Basin was monitored in 2003 and will again be targeted in 2008. An effort will be made to expand the monitoring to isolate areas of concern and to focus resources to address identified problems.

Periodically, compliance monitoring will be conducted at NPDES permitted facilities to verify permit limitations are being adhered to. Facilities are selected either randomly or in response to inspection or reported information.

As well, the NPDES permits require self-monitoring of the effluent by the permittee with the frequency of the monitoring being based on the discharge characteristics. The data is then reported to NDEQ quarterly, semiannually or annually and entered into the EPA's Permitting Compliance System. The compliance monitoring and self-monitoring information will be used in assessing the success of the TMDL.

Recently, analytical techniques have been introduced that may provide a greater level of confidence in the identification of pollutant sources. These techniques include microbial source tracking and specialized sampling the targets human wastewater. As the science progresses the application of these analytical techniques may become a valuable tool for source identification and pollutant reduction.

5.0 Public Participation

The availability of the TMDL in draft form was published in the Crawford with the public comment period running from approximately October 10 2005 to December 1, 2005. This TMDL was also made available to the public on the NDEQ's Internet site and interested stakeholders were informed via email of the availability of the draft TMDL. No comments were received during the public participation period.

6.0 References

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Appendix A – Federal, State Agency and Private Organizations Included in TMDL Implementation.

FEDERAL

- Bureau of Reclamation*
- Environmental Protection Agency*
- Fish and Wildlife Service*
- Geological Survey*
- Department of Agriculture - Farm Services Agency*
- Department of Agriculture - Natural Resources Conservation Service*

STATE

- Nebraska Association of Resources Districts
- Department of Agriculture
- Department of Environmental Quality
- Department of Roads
- Department of Water Resources
- Department of Health and Human Services
- Environmental Trust
- Game and Parks Commission
- Natural Resources Commission
- University of Nebraska Institute of Agriculture and Natural Resources (IANR)
- UN-IANR: Agricultural Research Division
- UN-IANR: Cooperative Extension Division
- UN-IANR: Conservation and Survey Division
- UN-IANR: Nebraska Forest Service
- UN-IANR: Water Center and Environmental Programs

LOCAL

- Natural Resources Districts
- County Governments (Zoning Board)
- City/Village Governments

NON-GOVERNMENTAL ORGANIZATIONS

- Nebraska Wildlife Federation
- Pheasants Forever
- Nebraska Water Environment Association
- Nebraska Corn Growers Association, Wheat Growers, etc.
- Nebraska Cattlemen's Association, Pork Producers, etc
- Other specialty interest groups
- Local Associations (i.e. homeowners associations)