

**Total Maximum Daily Load
To Address Biological Impairment in**

Moon Brook (VT03-06)

Rutland County, Vermont

October 2008

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Appendix A: Summary of Responses to Public Comments

Introduction

Section 303(d) of the Federal Clean Water Act requires each state to identify waters not attaining water quality standards, and to establish total maximum daily loads (TMDLs) for such waters for the pollutant of concern. The TMDL establishes the allowable pollutant loading from all contributing sources at a level necessary to attain the applicable water quality standards. TMDLs must account for seasonal variability and include a margin of safety that accounts for uncertainty of how pollutant loadings may impact the receiving water's quality. Once the public has had an opportunity to review and comment on the TMDL, it is submitted to the U.S. Environmental Protection Agency (USEPA) for approval. Upon approval, the TMDL is incorporated into the state's water quality management plan.

This TMDL establishes a scientifically based water quality target for Moon Brook that, when attained, will allow the stream to meet or exceed the established Vermont Water Quality Standards (VTWQS) for which it is impaired. This TMDL has been established in accordance with Section 303(d) of the Federal Clean Water Act, implementing regulations (40 CFR §130) regarding TMDL development, and other relevant USEPA guidance documents.

The basis for this TMDL was initially explained in the final report produced by the Vermont Water Resources Board Investigative Docket (Vermont Water Resources Board, 2004). More specifically, Appendix A of that document ("*A Scientifically Based Assessment and Adaptive Management Approach to Stormwater Management (Stormwater Cleanup Plan Framework)*") outlined the necessary steps to develop a scientifically sound approach in creating TMDLs for stormwater-impaired waters. Henceforth, this approach is referred to as the "Framework". The Vermont Department of Environmental Conservation (VTDEC) adhered to the Framework's approach for developing cleanup targets in this TMDL.

Several investigations have been conducted by multiple parties to derive the necessary information called for in the Framework. Significant results and findings of those investigations are summarized in this TMDL. Additionally, frequent interaction between VTDEC and the VTDEC-convened Stormwater Advisory Group (SWAG) yielded useful guidance for the development of this TMDL.

Description of Waterbody

Moon brook drains a watershed of approximately 5,545 acres located in the City of Rutland and the Towns of Rutland and Mendon in Rutland County Vermont (Figure 1). The headwaters drain the undeveloped forested area of East Mountain and the streams flow through an increasingly residential area below Town Line Road. The Rutland City landfill is located in this area at approximately river mile (RM) 3.3. From there the stream travels through a wooded area until flattening out just upstream of the Combination Pond at RM 2.9. From there the watershed becomes more highly developed characterized primarily by dense residential housing. A second on-stream pond, Piedmont Pond, is situated at river mile 2.4. The stream crosses under Rt. 7 at river mile

1.2 and finally under Forest St. (RM 0.3) the brook flattens out in a field before entering Otter Creek. Mussey Brook enters Moon Brook just above Forest St. at approximately river mile 0.4.

Mussey Brook drains the southeast portion of the Moon Brook watershed and is comprised of similar development patterns but is slightly less urbanized in its mid and upper portions than Moon Brook. Similar to Moon Brook, Mussey Brook also contains two on-stream ponds; however, both somewhat larger.

The entire length of Moon Brook and its tributaries are Class B waters designated as coldwater fish habitat pursuant to the Vermont Water Quality Standards.

Based on land use/land cover mapping estimates, the watershed is nearly evenly divided between developed and forested lands. There is a small portion of the watershed categorized as either agricultural or open space.

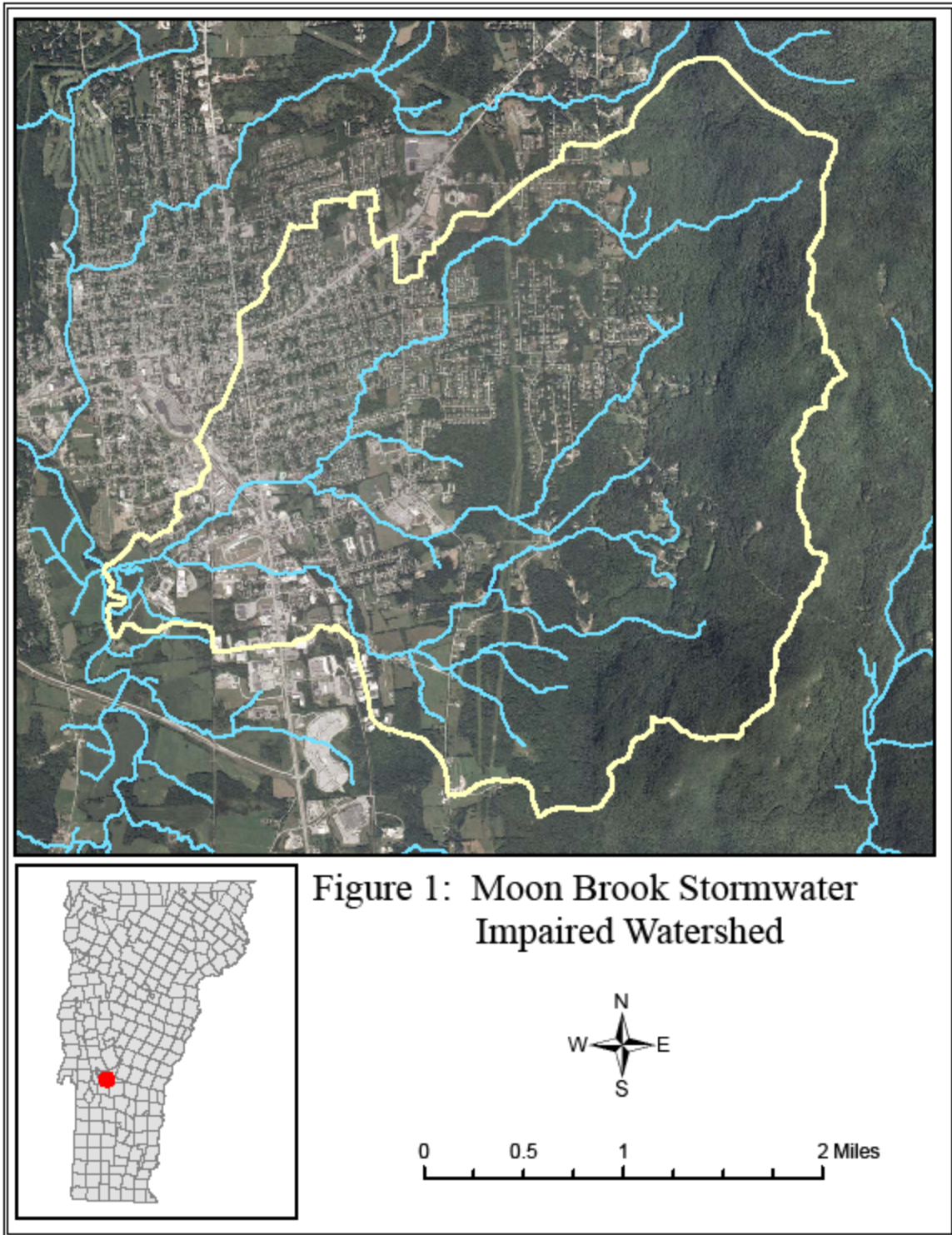


Figure 1: Moon Brook Stormwater Impaired Watershed

Priority Ranking/303d List of Impaired Waters

Moon Brook is designated as impaired on the 2006 Vermont 303(d) List from its mouth at Otter Creek to a point upstream 2.3 miles due to non-support of aquatic life designated uses. Since all tributaries and the upstream main stem drain to the impaired lower portion of the stream, the entire Moon Brook watershed is considered to contribute to its impairment. The source of the impairment is multiple impacts associated with excess stormwater runoff.

According to the 2006 Vermont 303(d) List, TMDL development priority for Moon Brook is high and scheduled for completion within 1-3 years from the 2006 listing cycle. In the 2006-2007 Legislative session, the Vermont Legislature amended the Vermont stormwater statute, 10 VSA §§1264 and 1264a, to require the issuance of a general or individual permit implementing a TMDL approved by EPA by January 15, 2010 for Vermont's stormwater impaired streams. VTDEC agrees with the Legislature that TMDL development and the issuance of general or individual permits to implement TMDLs for these streams is a high priority and is an integral component of the remediation process.

Description of Impairment

Biological Monitoring

In all the stormwater-impaired streams in Vermont, aquatic life use support (ALS) impairments are detected through the use of biological monitoring of fish and/or macroinvertebrate communities. The biological monitoring program relies on data from reference sites to define biological community goals for a given stream type. This approach is provided for in the VTWQS and specific numeric biological criteria have been established for several stream types to indicate compliance with the VTWQS.

The monitoring is extremely useful in that it directly measures the health of the aquatic life community and is reflective of environmental conditions that occur in the stream over an extended period of time (i.e. months) including the effects of intermittent discharges such as stormwater. However, biological monitoring is limited when trying to identify the specific pollutant stressor(s) and the extent to which they might contribute to the impairment.

The main stem of Moon Brook from its confluence with Otter Creek to a point 2.3 miles upstream is listed as impaired due to non-support of aquatic life designated uses (poor biological condition). The listing is based primarily on assessments of fish and macroinvertebrate communities within the reach of Moon Brook designated as impaired (Table 1). Assessment ratings of Fair or Poor generally indicate impairment.

Regarding the fish community assessment, twelve samples from 6 sites were sampled and assessed for community health between 1986 - 2005. Four samples rated poor, 6 samples rated fair, one rated good and one sample rated very good. All 9 assessments below

Combination Pond above Stratton Drive were rated fair or poor, failing to meet the Class B standards. The only sites that meet the standards are RM 3.2 and 3.3, above Combination Pond and above the reach designated as impaired.

Macroinvertebrates were sampled fourteen times from 7 sites; 10 samples rated poor or fair, 2 rated good, and 2 rated very good or excellent. All 7 samples taken at and below RM 0.9 (Howe Industrial Park) failed to meet the Class B standard. All assessments at RM 3.2, above Combination Pond, and 2 assessments at RM 3.3 since 1991 were rated good or very good. The 2001 assessment at RM 3.3 showed a decrease in biological integrity (very good to good) compared to the 1991 sample.

Table 1. Biomonitoring site locations and overall Aquatic Life Use Support (ALS) assessment using the fish and/or macroinvertebrate community, by site and year, on Moon Brook.

Site (River Mile)	Year	Fish Assessment	Macroinvertebrates Assessment
0.3	1986	Fair	-
	1991	-	Poor
	1993	Fair	Poor
	1994	-	Fair-Poor
	1996	-	Fair-Poor
	2001	-	Fair-Poor
	2004	-	Poor
	2005	Fair	-
0.9	1991	Fair	Poor
	2002	Poor	-
	2004	Poor	-
1.2	1988	Fair	-
1.5	2001	Fair	Good-Very Good
	2002	Poor	-
	2004	-	Fair
2.8	2005	Poor	Poor
2.9	1991	-	Poor
3.2	2001	-	Excellent-Very Good
3.3	1991	-	Very Good- Good
	2001	Good	Good
	2005	Very Good	-
Mussey Bk. 0.1	2002	Poor	-
	2004	Fair	-

Pollutants of Concern and Other Stressors

In streams draining developed watersheds, biological communities are subjected to many stressors associated with stormwater runoff. These stressors are related either directly or indirectly to stormwater runoff volumes and include increased watershed pollutant load (e.g. sediment), increased pollutant load from in-stream sources (e.g., bank erosion),

habitat degradation (e.g. siltation, scour, over-widening of stream channel), washout of biota, and loss of habitat due to reductions in stream base flow. The stressors associated with stormwater runoff may act individually or cumulatively to degrade the overall biological community in a stream to a point, as in Moon Brook, where aquatic life uses are not fully supported and the stream does not attain the VTWQS.

Surrogate Measure for Multiple Stressors

This TMDL utilizes the surrogate of stormwater runoff volume in place of the traditional “pollutant of concern” approach. The combination of stressors is represented by the surrogate of stormwater runoff volume. First, the use of this surrogate has the primary benefit of addressing the physical impacts to the stream channel caused by stormwater runoff such as sediment release from channel erosion and scour from increased flows. These physical alterations to the stream are substantial contributors to the aquatic life impairment. Also, reductions in stormwater runoff volume will help restore diminished base flow (increased groundwater recharge), another aquatic life stressor. This surrogate is also appropriate because the amount of sediment and other pollutants discharged from out of channel sources is a function of the amount of stormwater runoff generated from a watershed.

Fluvial Geomorphic Considerations

Where biological impairment of a stream is principally the result of physical stressors, such as in Moon Brook, the natural and anthropogenic factors controlling physical form and process may be quantified, and the strategies for restoring modified fluvial processes may be devised.

According to McCrae (1991), channel morphology and fluvial processes are primarily controlled by a) watershed inputs from the production zone of the watershed; b) the valley morphology of the stream reach; and c) the boundary material characteristics of the channel (Figure 2).

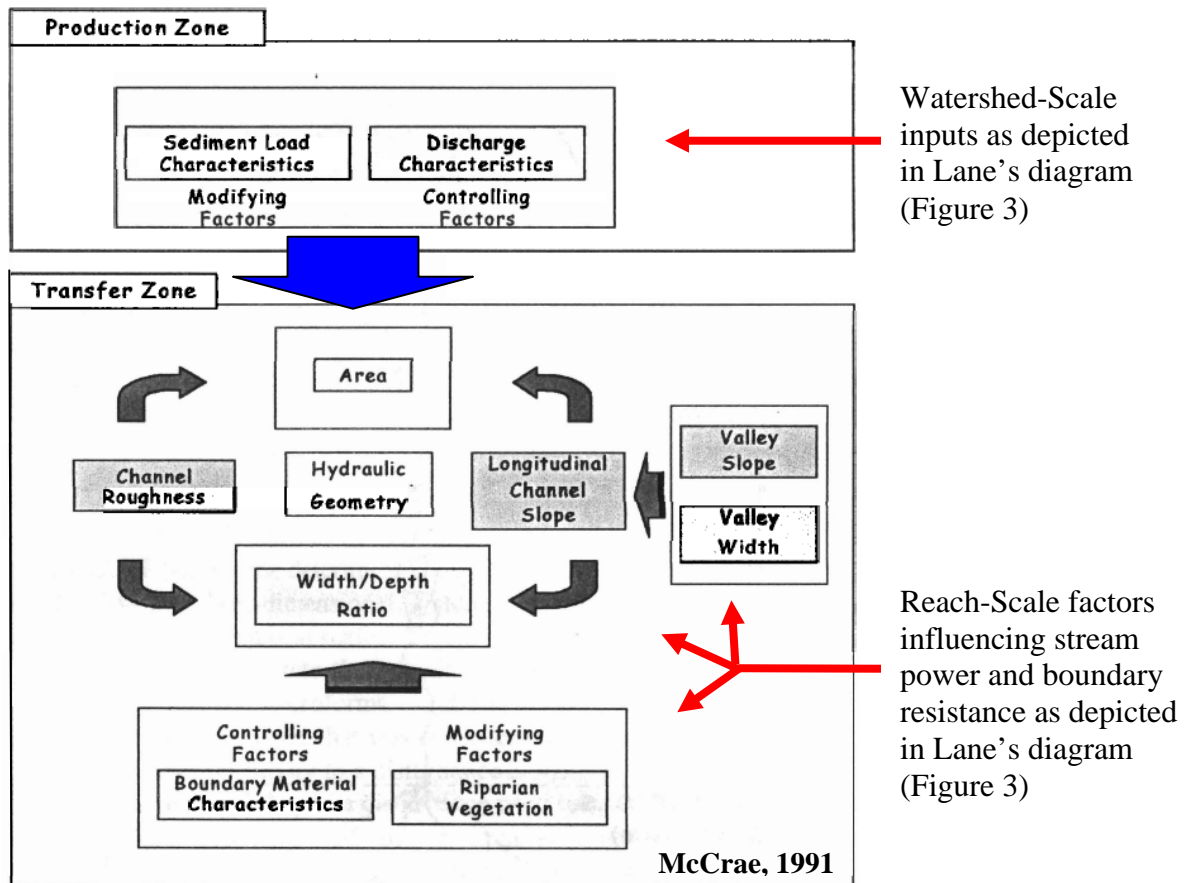


Figure 2. Diagram explaining the watershed and reach-scale controlling and modifying factors affecting the hydraulic geometry and fluvial processes of a stream.

In turn, channel and floodplain modifications and changes to the controlling factors of discharge and boundary materials, brought about by watershed and riparian land use modifications, place stress on biological communities by altering key physical habitat features of the stream network, including: hydrology; longitudinal and lateral connectivity; temperature; and the transport and retention of sediment, large wood, and organics.

Where the overall goal in the stormwater-impaired watersheds is to reduce physical stressors on key habitat features, the primary objective is to cost effectively manage toward the “reference” hydraulic geometry conditions of the stream channel where the energy grade or stream power, *as influenced by stream flow (discharge characteristics)*, is in balance with the resistance of the natural boundary materials (see Figure 3).

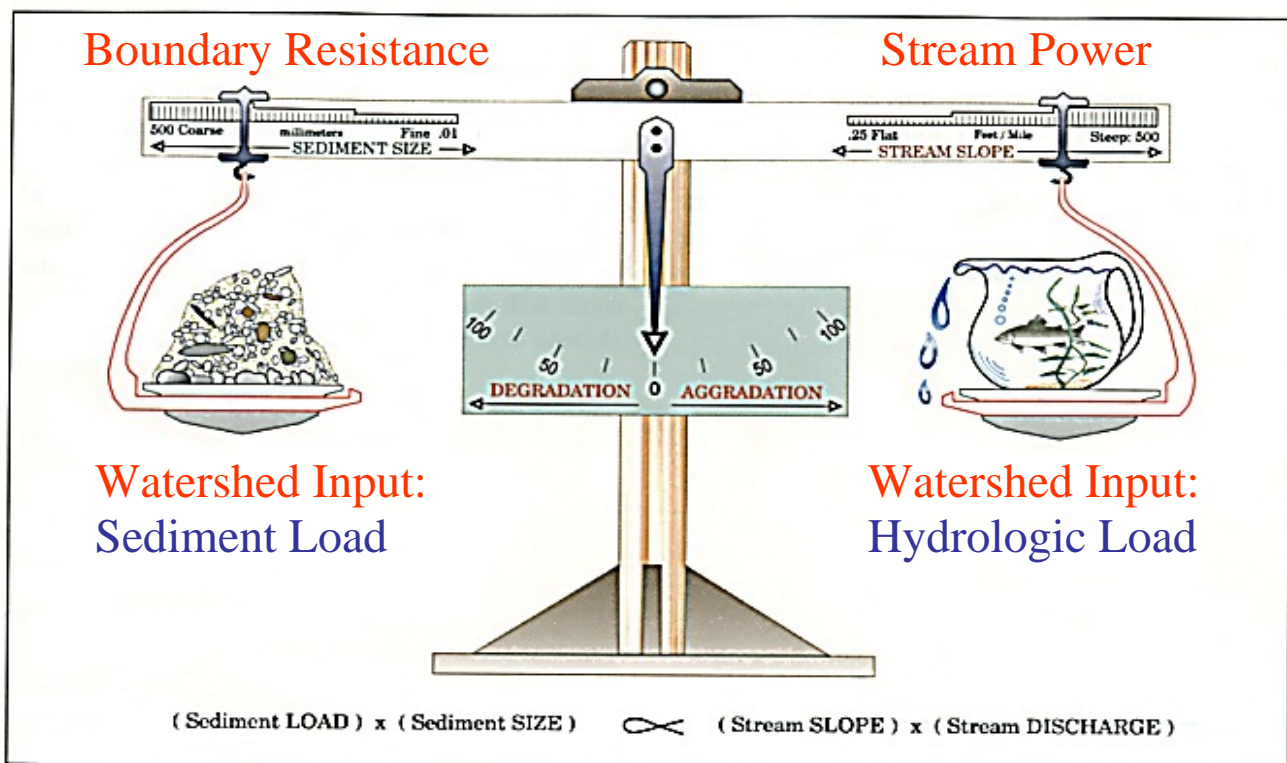


Figure 3: Lane's Diagram (1955) from Rosgen 1996 explaining the balance of stream energy grade with boundary resistance as controlled by hydrologic and sediment load.

The first priority in managing energy grade is to look at stream flow characteristics (Figure 2. production zone input) as the primary controlling factor influencing hydraulic geometry and stream power. To meet the stated goal, alterations to watershed inputs (i.e., stormwater) must be addressed before attempts to remediate other reach-scale (transfer zone) factors affecting hydraulic geometry are undertaken (e.g., dealing with river corridor encroachments to change artificial valley constraints affecting channel plan form and slope and/or restoring floodplain connection to reduce flood depths).

Additionally, sediment load from the production zone may also be a controlling factor to channel hydraulic geometry (Figure 2). In the case of stormwater-impaired streams in Vermont, production zone contributions (colluvial and runoff generated) are far outweighed by the sediment contributions at the transfer zone or reach scale (channel bed and banks), due to channel degradation and widening initiated by stormwater increases.

Stream geomorphic assessment data specific to Moon Brook confirms the significance of the instream sediment generation, as opposed to production zone sediment inputs, and its resultant negative impact on aquatic biota habitat. Results from a 2005 geomorphic assessment in Moon Brook indicate that the stream channel is highly unstable and that the potential for more degradation is high (Bear Creek Environmental, 2006). Of ten reaches assessed in the Moon Brook watershed, one was rated as being in "poor" geomorphic condition, four reaches rated "fair" and five reaches rated "good". In the same 10

reaches, sensitivity to further channel instability was rated as “extreme” in one reach, “very high” in four and “high” in the remaining five reaches. These conditions in turn reflect a generally degraded aquatic habitat whereby seven reaches were rated as having “fair” habitat conditions with three rated as “good”.

The goal of this TMDL is to address the controlling factor of instream sediment production by determining the departure of existing discharge characteristics in Moon Brook from attainment stream discharge characteristics and to set flow reduction targets to allow for the reestablishment of good habitat conditions throughout the stream in order to meet VTWQS.

Reduced Base Flow

Increased impervious cover and the resulting increase in surface runoff reduces the amount of rainfall that falls on pervious (e.g., vegetated) watershed areas and that is recharged to groundwater. For many streams, groundwater recharge is the predominant source of stream base flow. Diminished base flow can further stress aquatic life and cause or contribute to aquatic life impairments through loss of aquatic habitat (shrinking wetted perimeter) and increased susceptibility to pollutants.

The loss in base flow is directly proportional to the increase in stormwater runoff volume. It is possible to reasonably estimate stormwater runoff and the amount being recharged. It can be far more complicated to estimate the relationship between groundwater recharge and stream base flow. However, simpler methods involving hydrologic models have been used to successfully predict stream base flow as a function of groundwater recharge. More difficult, however, is understanding and quantifying the net effect of diminished base flow on aquatic life for a given stream.

Temperature

Another documented stressor to the aquatic biota in the Moon Brook watershed is elevated summertime temperatures. The City of Rutland has conducted continuous summertime stream temperature monitoring for several years (2005-2007) and results have shown that two on-stream ponds can have a significant effect on increasing summertime temperatures. The VTDEC has also measured instantaneous temperatures in conjunction with biological monitoring and has determined that elevated temperatures may be having a negative impact on biological communities, especially in the upper watershed immediately downstream of the ponds. At this time the VTDEC still believes that the cumulative effects of excess stormwater runoff is the primary stressor to the aquatic biota, especially in the lower watershed; however, attempts to reduce the impact of the on-stream ponds on increased water temperatures should be pursued as vigorously and expeditiously as the control of stormwater runoff.

Water Quality Standards

Moon Brook is listed as impaired based on narrative criteria relating to aquatic biota. The impact of excessive stormwater flows into Moon Brook has resulted in a violation of the VTWQS §3-04(B)(4) which states that there shall be:

“No change from the reference condition that would prevent the full support of aquatic biota, wildlife, or aquatic habitat uses. Biological integrity is maintained and all expected functional groups are present in a high quality habitat. All life-cycle functions, including overwintering and reproductive requirements are maintained and protected.”

In Vermont, numeric biological indices are used to determine the condition of fish and aquatic life uses. Vermont’s Water Quality Standards at 3-01(D)(1) and (2) provide the following regulatory basis for these numeric biological indices:

“(1) In addition to other applicable provisions of these rules and other appropriate methods of evaluation, the Secretary may establish and apply numeric biological indices to determine whether there is full support of aquatic biota and aquatic habitat uses. These numeric biological indices shall be derived from measures of the biological integrity of the reference condition for different water body types. In establishing numeric biological indices, the Secretary shall establish procedures that employ standard sampling and analytical methods to characterize the biological integrity of the appropriate reference condition. Characteristic measures of biological integrity include but are not limited to community level measurements such as: species richness, diversity, relative abundance of tolerant and intolerant species, density, and functional composition.

(2) In addition, the Secretary may determine whether there is full support of aquatic biota and aquatic habitat uses through other appropriate methods of evaluation, including habitat assessments.”

Designated Uses

Moon Brook is a Class B waterbody. Section 3-04(A) of the VTWQS states:

Class B waters shall be managed to achieve and maintain a high level of quality that is compatible with the following beneficial values and uses: . . .

§3-04(A)(1):

aquatic biota and wildlife sustained by a high quality aquatic habitat with additional protection in those waters where these uses are sustainable at a higher level based on Water Management Type designation.

Since biomonitoring data does not meet the criteria for Class B standards, Moon Brook does not support the designated uses for Class B waters.

Antidegradation Policy

In addition to the above standards, the VTWQS contain the following General Antidegradation Policy in §1-03(B):

All waters shall be managed in accordance with these rules to protect, maintain, and improve water quality.

Numeric Water Quality Target

In a pollutant-specific TMDL, a stream's water quality target, or loading capacity, is the greatest amount of pollutant loading the water can receive without violating water quality standards. In this TMDL, because the "pollutant of concern" is represented by the surrogate measure of stormwater runoff volume, the loading capacity is the greatest volume of stormwater runoff Moon Brook can receive without violating the stream's aquatic life criteria. The challenge is to determine the maximum stormwater runoff target volume for the stormwater-impaired streams.

Target Setting Approach

The Framework identifies a reference watershed approach whereby hydrologic targets are developed by using similar "attainment" watersheds as a guide. The term "attainment" is used here rather than "reference" because reference tends to imply that the ultimate goal for the impaired stream approaches pristine. Instead, the attainment watershed(s), while meeting or exceeding the Vermont water quality standards criteria for aquatic life, should contain some level of development in order to better approximate the true ecological potential of the impaired stream. This TMDL uses the attainment watershed approach for target setting and identifies hydrologic targets for Moon Brook based on the hydrologic characteristics of similar watersheds where the VTWQS aquatic life criteria are currently met.

The first step in using the attainment watershed approach is to select appropriate attainment streams, which, ideally, are as similar to the impaired watershed as possible in physical makeup, such as slope, soils, climatic patterns, channel type, and land use/cover, etc. Since all of the lowland stormwater-impaired streams are located in the Lake Champlain Valley, a collection of similarly located streams was identified from which the most representative attainment watersheds could be selected for each stormwater-impaired watershed.

The Framework identifies flow duration curves (FDCs) as the best surrogate for defining hydrologic targets. FDCs are very useful at describing the hydrologic condition of a stream/watershed because the curves incorporate the full spectrum of flow conditions (very low to very high) that occur in the stream system over a long period of time. The FDCs also incorporate any flow variability due to seasonal variations. A comparison of FDC between an impaired and appropriate attainment stream/watershed can reveal obvious patterns. For example, a FDC for a stormwater-impaired stream/watershed will typically show significantly higher flow rates per unit area for high flow events and significantly lower flow rates per unit area for low-base flow conditions than the FDC for the attainment watersheds. The increased predominance of high flow events in the impaired watershed creates the potential for increased watershed stormwater pollutant loadings, increased scouring and stream bank erosion events, and the possible displacement of biota from within the system. Also the reduction in stream base flow revealed by the FDC can create a potential loss of habitat for low flow conditions.

A high flow value (0.3%) and a low flow value (95%) were selected as points along the continuum of the FDCs useful for setting specific hydrologic targets. The 0.3% exceedance flow closely matches the one year return flow and the 95% exceedance flow represents a low flow condition comparable to the 7Q10.

Since there is limited hydrologic data for either impaired or attainment streams, the Framework recommends developing synthetic FDCs by employing a calibrated rainfall-runoff model based on watershed characteristics. FDCs can then be developed for both impaired and attainment streams and the relative difference between the two is used to establish the flows needed to restore the stream's hydrology. In this TMDL, the hydrologic targets are expressed as percentage reductions or increases relative to the attainment watersheds' FDCs at the representative high and low flow values.

Flow Duration Curve Development

Based on available data and the model outputs necessary to develop the FDCs, the P8-Urban Catchment Model (P8-UCM) was selected (Walker, 1990) to develop the synthetic FDC for both the stormwater impaired and attainment streams. Inputs to P8-UCM for hydrologic simulation include climatological data, percent watershed imperviousness, pervious curve number, and times of concentration for ground water base flow and surface runoff.

After initial calibration and review, additional changes were made to improve the low flow prediction capability of the model and refine the estimated surface runoff time of concentration. Upon final review and model verification, the calibrated model was used to develop FDCs for all impaired and attainment streams in the lowland areas. A complete discussion of the model setup, calibration, adjustments and results can be found in the report entitled "*Stormwater Modeling for Flow Duration Curve Development in Vermont*" (Tetra Tech, 2005). The complete FDC for Moon Brook along with expanded views of the high and low flow portions of the curve are given below in Figures 4 through 6.

Target Setting

With the FDCs for all attainment and impaired streams in hand, a process was developed to determine which attainment streams to use for setting appropriate hydrologic targets. A statistical approach was developed cooperatively by researchers at the University of Vermont and the VTDEC that allowed for the selection of the most appropriate attainment streams for each stormwater-impaired stream. A summary of this methodology is given below; however, the complete methodology and results can be found in a report under separate cover (Foley, 2005).

The first step in this target setting approach was a statistical analysis of the P8 input variables for each watershed to establish what are the most influential factors determining impairment/attainment in the sample of Lake Champlain Valley streams. The second step grouped impaired streams with the most similar attainment streams based on watershed features that were least likely to determine impairment based on step one. By

doing this, watersheds were grouped based on intrinsic similarities that effect flow, resulting in attainment streams being grouped with the most similar stormwater-impaired streams. Within each group, the attainment stream FDCs represent a hydrologic regime that will most likely support healthy aquatic life and thus the attainment of the VTWQS for each stormwater-impaired stream.

Due to the relatively small sample size of attainment streams (15) relative to the number of lowland stormwater-impaired streams (12), the concept of a range of appropriate FDC values is useful to alleviate some uncertainty associated with selecting the single best matching watershed. While the entire range of flows within each attainment group represents flow regimes associated with attainment conditions (i.e. supporting VTWQS criteria for aquatic life), the selection of the mean value provides an additional “buffer” that the selected target represents an attainment condition.

In the case of Moon Brook, there was only a single attainment stream, Tenney Brook, grouped with it so there was no range of flows from which to calculate a mean value. Because only the single attainment stream was matched with Moon Brook, a modified approach was applied to simulate an attainment range and develop a more conservative target than simply using the flow of the single attainment stream as the target. To do this, the other attainment ranges developed for the lowland stormwater impaired streams were analyzed to determine the relationship between the high flow end of the attainment range to the mean of the range. This analysis showed an average difference of 5% between the highest flow in the attainment range and the attainment mean. The range of percent differences was from 1% to 10%. The next step assumed that the modeled flows from Tenney Brook represented the highest flows of an assumed attainment range for Moon Brook. The flow at the 0.3% exceedance interval was reduced then by 5% to represent the mean of the attainment range and thus the new calculated high flow target for Moon Brook. The same approach was applied to the low flow target to develop a calculated target.

The attainment stream best matched with Moon Brook is given in Table 2 with FDC flows at the high and low flow intervals. Also, the calculated target flow is given based on the above described approach.

Table 2. Attainment stream matched with Moon Brook and corresponding flows.

	Status	Q 0.3% (cfs/mi ²)	Q 95% (cfs/mi ²)
Moon	Impaired	9.9587	0.2030
Tenney	Attainment	9.3369	0.2399
Calculated target flows		8.8700	0.2519
Difference between Moon Bk. and target flows		1.0887	0.0489

Figures 4 through 6 graphically represent the FDCs for Moon Brook and associated attainment stream (complete FDC, high flow and low flow respectively).

Figure 4. Flow duration curves for Moon Brook and attainment stream.

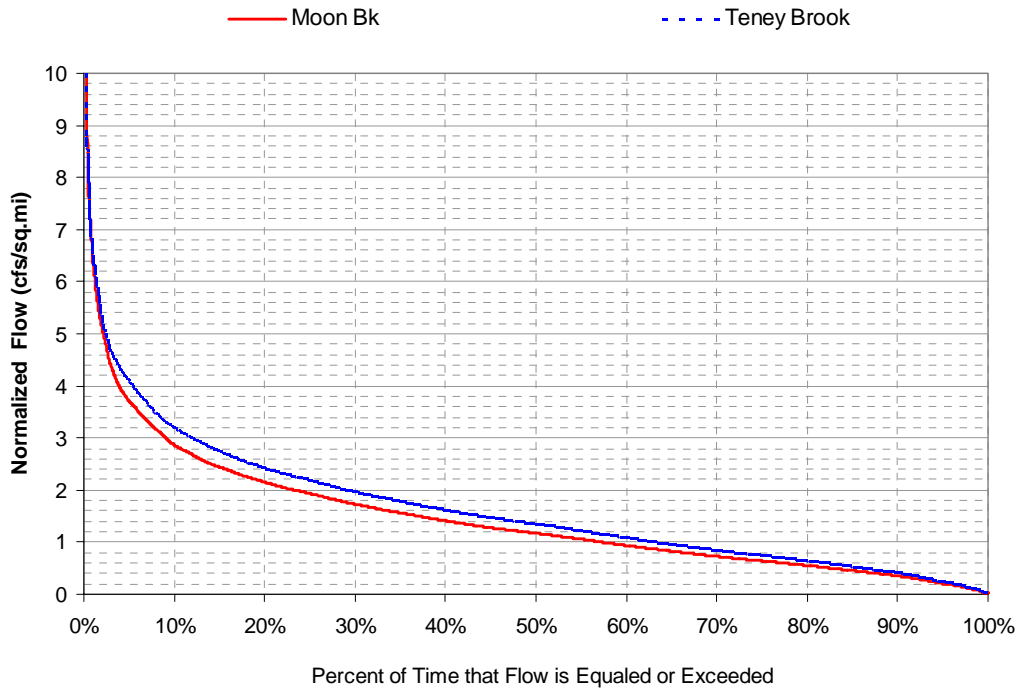


Figure 5. High flow portion of the flow duration curves for Moon Brook and attainment stream.

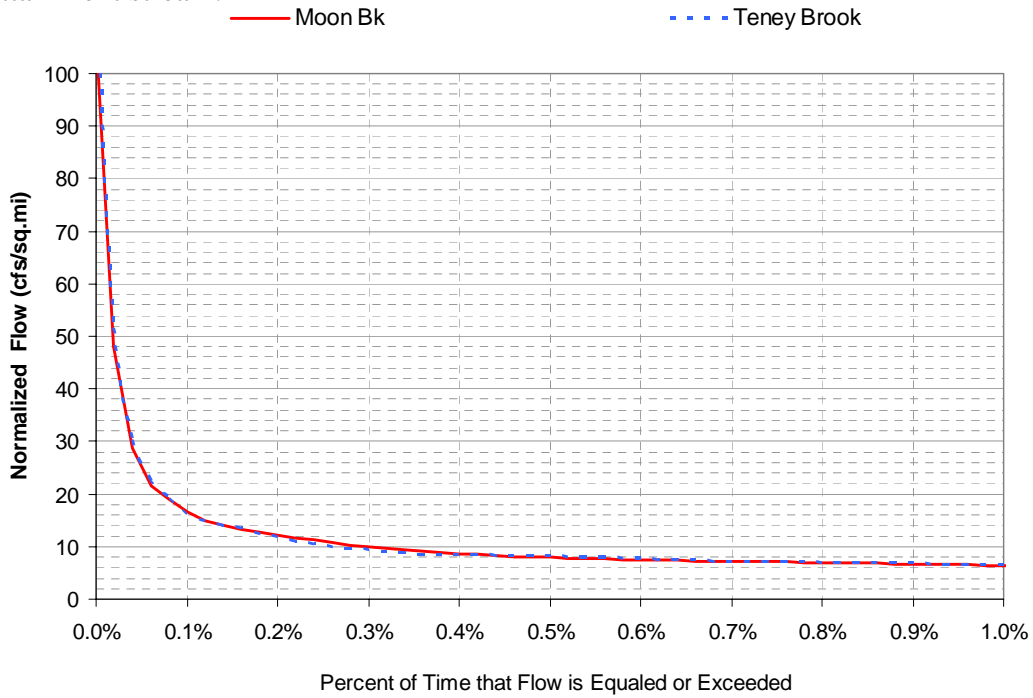
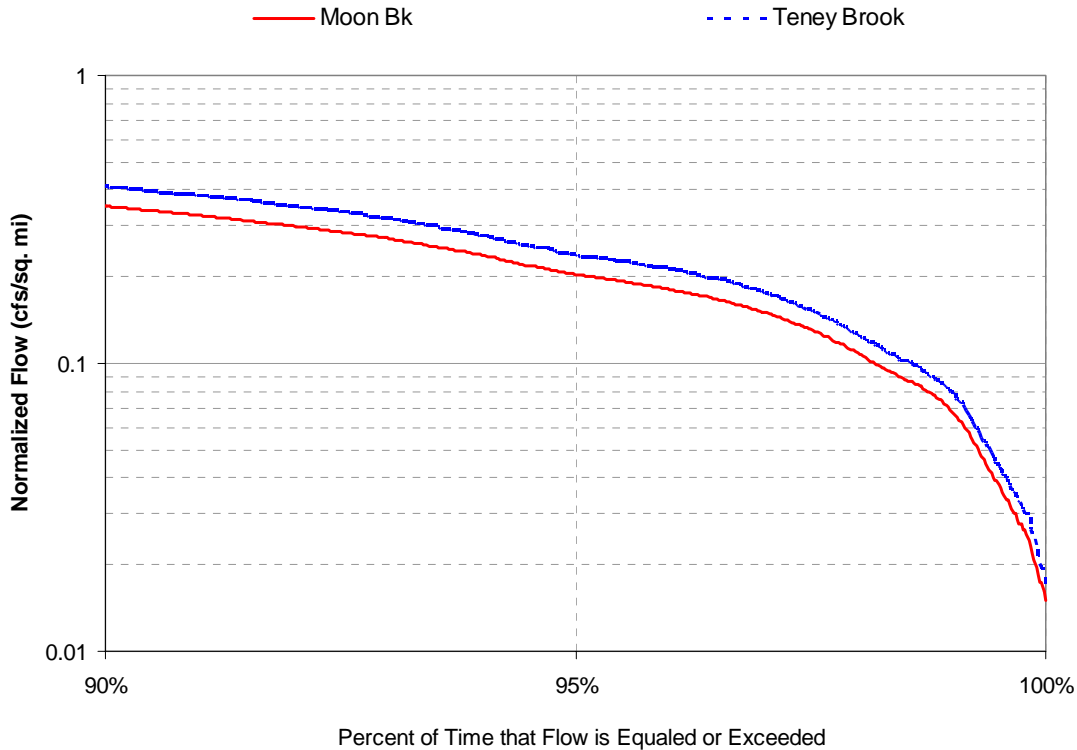


Figure 6. Low flow portion of the flow duration curves for Moon Brook and attainment stream.



The actual TMDL target flows for Moon Brook are the percentage difference between the Moon Brook flows and the flow of the attainment stream at both Q0.3% and Q95% (Table 3). This accounts for any lack of accuracy in the FDCs developed with the P8-UCM. Considering the relative simplicity of the model, there may be some inaccuracy with the final modeled flow values compared to actual flows. However, since similar data sources and calibrated model were used across all watersheds, both impaired and attained, inaccuracies are expected to be relative across all watersheds. Therefore, the relative difference between impaired and target flows are best described as a percentage rather than actual flow rates.

Table 3. Watershed flow targets for Moon Brook given as percentage increase/decrease from current conditions.

Target decrease in flow at Q 0.3%	Target increase in flow at Q 95%
10.9%	24.1%

Margin of Safety

The Clean Water Act and implementing regulations require that a TMDL include a margin of safety (MOS) to account for any lack of knowledge concerning the relationship

between the TMDL allocations and water quality. EPA guidance explains that the MOS may be either implicit (i.e. incorporated into the TMDL through conservative assumptions in the analysis) or explicit (i.e. expressed as a separate allocation). The MOS in this TMDL is implicit and is incorporated through conservative assumptions in the target setting approach.

The use of the attainment stream approach is a particularly good approach to identify flow targets because it relates appropriate flow conditions in streams that comply with the VTWQS (attainment streams) back to Moon Brook. However, haphazard matching of attainment streams, and thus flow targets, to Moon Brook could lead to targets with a high degree of uncertainty as to whether standards would be met. To provide a more rigorous target setting approach, attainment streams for Moon Brook were selected using an analysis described in “Statistical Analysis of Watershed Variables” (Foley, J. and Bowden, 2005). VTDEC believes that by utilizing this approach, Moon Brook was paired with the “most similar” attainment stream available in the Lake Champlain Basin. By identifying the “most similar” attainment stream through standard statistical approaches, a significant amount of uncertainty is eliminated regarding what are the best target values.

Additionally, it is likely that the flows represented by the attainment stream are not at the “threshold” of attainment. That is, the modeled flows in the stream currently meeting standards likely represent flows somewhat below that which impairment would occur, thus adding an additional level of safety that the attainment flows are protective.

VTDEC affirms the attainment stream approach outlined in the Docket report and has taken steps to reduce a significant level of target setting uncertainty by incorporating a solid statistical approach. The fact that the stormwater runoff volume target approach has not routinely been utilized in the development of TMDLs should not detract from its firm basis in sound science and logical experimental design.

Further, the Docket strongly urges the concept of adaptive management when implementing controls in the stormwater-impaired streams and VTDEC is firmly committed to this idea. Various types of watershed monitoring, many of which have already been initiated, will provide the necessary data to either adjust the targets or implementation measures to ensure ultimate compliance with VTWQS in Moon Brook. While VTDEC believes there is an adequately conservative margin of safety associated with these targets, post-implementation adaptive management provides yet another layer of “safety” that the VTWQS will be met.

Seasonal Variation

The Clean Water Act and implementing regulations require that a TMDL be established with consideration of seasonable variations. The FDCs, and subsequent hydrologic targets, developed for this TMDL are very useful for incorporating any seasonal variation in the stream system because they describe the full spectrum of flow conditions (very low to very high) that occur. By using a 10 year simulation period utilizing actual precipitation data to develop the FDCs, any flow variability due to seasonal variations has

been incorporated into the hydrologic targets and the required flow decreases/increases in Moon Brook to meet those targets.

Allocations

In addition to the overall watershed target, TMDLs must also provide for an allocation of that target between point sources and nonpoint sources, or, the Wasteload Allocation (WLA) and the Load Allocation (LA) respectively. USEPA guidance allows for a gross allocation between these two stormwater source types rather than accounting for every discrete stormwater conveyance and the areas draining to them (USEPA 2002). The USEPA guidance also allows for dividing the allocation by using a land use analysis to simplify the process. By making the assumption that more developed areas typically convey stormwater via discrete means such as pipes or swales and lesser developed areas mostly convey stormwater via surface sheetflow, the allocation process can be developed with land use analysis whereby developed areas fall into the WLA and the lesser developed areas into the LA.

This TMDL uses the land use based allocation approach to distribute the overall percentage targets for the watershed. To do this, the Moon Brook watershed was divided into three broad categories including Urban/Developed, Agriculture/Open, and Forest/Wetland. Table 4 below illustrates how the land use categories were divided into these three broader categories and the associated land areas within the Moon Brook watershed.

Table 4. Categorization of Land Uses into broader classes.

Major Land Use Categories	Land Use Name
Urban/Developed	Residential
	Commercial
	Industrial
	Transportation
	Other Urban
Agriculture/Open	Agriculture/Mixed Open
	Row Crops
	Hay/Pasture
	Barren Land
Forest/Wetland	Deciduous Forest
	Coniferous Forest
	Mixed Forest
	Brush/Transitional
	Wetland
	Water

The overall percent reduction/increase in flows was then distributed among these three categories to meet watershed targets. It was determined that there would be a zero allocation, or no expected change in flow levels emanating from the Forest/Wetland category since the runoff characteristics from these areas are likely optimal with regard to overall watershed hydrology. This left the allocation to be distributed between the Urban/Developed (WLA) and Agriculture/Open (LA) categories. The next step was to determine the relative amount of influence each category had on runoff characteristics, and thus the FDC, and divide the allocation accordingly. To accomplish this, the concept of a runoff coefficient was utilized.

A runoff coefficient (R_v) is an expression of the percentage of precipitation that appears as runoff. The value of the coefficient is determined on the basis of climatic conditions and physiographic characteristics of the drainage area and is expressed as a constant between zero and one. By determining the relative contribution to stormwater runoff from each land use category using the R_v , the allocation between WLA and LA can be made accordingly.

The primary influence on R_v is the degree of watershed imperviousness. This is shown through data collected from numerous watersheds during the National Urban Runoff Program Study from which an equation was developed to define the R_v , as shown below (Schueler 1987):

$$R_v = 0.05 + 0.9(I_a)$$

Where: I_a = Impervious fraction

Percent imperviousness was estimated using a previously developed relationship (CWP et al., 1999) for the Vermont Center for Geographic Information (VCGI) land use data layer. Table 5 presents the estimated values for various land use categories.

Table 5. Relationship between VCGI Land Use and percent imperviousness.

VCGI Land Use Code	Land Use Name	Percent Impervious Cover
3	Brush/Transitional	0%
5	Water	0%
7	Barren Land	0%
11	Residential	14%
12	Commercial	80%
13	Industrial	60%
14	Transportation	41%
17	Other Urban	60%
24	Agriculture/Mixed Open	2%
41	Deciduous Forest	0%
42	Coniferous Forest	0%
43	Mixed Forest	0%
61,62	Wetland	0%
211	Row Crops	2%
212	Hay/Pasture	2%

By calculating the R_v for each broad land use group, and then weighting that coefficient's influence on runoff based on the amount of land area within each group, the relative influence of each group on runoff (and conversely groundwater recharge) can be used to allocate the watershed targets across the entire watershed. The results for Moon Brook are given below in Table 6.

Table 6. The relative influence of each land use category on stormwater runoff in Moon Brook based on the calculation of the R_v .

	R_v	Area (acres)	Weighted influence on runoff
Urban/Developed	0.27	2699	99%
Agriculture/Open	0.07	83	1%

USEPA interprets 40 CFR 130.2 to require that allocations for NPDES-regulated discharges of stormwater runoff be included within the wasteload allocation component of the TMDL (USEPA, 2002). USEPA also states that in instances where there is insufficient data to calculate loads on an outfall by outfall basis, the stormwater wasteload may be expressed as an aggregate or categorical allocation. USEPA acknowledges that in cases where it is difficult to separate NPDES-regulated from non NPDES-regulated stormwater discharges, it is acceptable to include both NPDES-regulated stormwater discharges and non NPDES-regulated discharges (which would typically be included in the load allocation portion of the TMDL) in this aggregated wasteload category.

Because of data limitations and the wide variability of stormwater discharges, it is not possible to separate the stormwater discharges subject to the NPDES program (e.g. stormwater discharges from construction activity, MS4 discharges and multi-sector industries) from stormwater discharges that are not subject to NPDES permitting (e.g. stormwater discharges from impervious surfaces regulated under Vermont's stormwater program). Therefore, all stormwater discharges from the urban/developed land category are included in the wasteload allocation portion of this TMDL. This category includes the NPDES-regulated stormwater discharges as well as other sources of stormwater runoff not regulated as NPDES discharges.

In other words, the weighted proportion of runoff from the more developed areas, where the vast majority of the NPDES regulated and non-NPDES regulated stormwater was generated, established the limit of the WLA. Therefore, the "regulated" areas, including all the NPDES regulated and non-NPDES regulated sources in the WLA, are responsible for reducing and maintaining a 99% decrease in the high flow target. The same is true for the LA whereby the "nonregulated" areas are responsible for reducing and maintaining a 1% decrease in the high flow target.

By aggregating NPDES-regulated and non NPDES-regulated stormwater discharges in the wasteload allocation, the public is provided with a clearer understanding of how Vermont proposes to achieve water quality standards and meet the cleanup target established in the TMDL. However, the inclusion of stormwater discharges outside the scope of the NPDES permit program in the wasteload allocation does not mean that these

discharges are legally required to obtain a NPDES stormwater permit currently or that they will be legally required to obtain a NPDES permit to implement the TMDL.

Future Growth

The Agency has applied a two step analysis in allocating for future growth in this TMDL. First, as to “jurisdictional” new growth that is subject to the VTDEC’s permit program for impervious surfaces under 10 V.S.A. Section 1264 (i.e. new impervious surfaces greater than one acre), the Agency assumes that the channel protection requirements in the Vermont Stormwater Management Manual requiring 12-hour detention of the 1-year storm, or 24-hour detention if discharging to a warm-water fishery, are sufficient to protect against future stream degradation. The manual requires sites to meet channel protection (CPv) as well as groundwater recharge treatment standards. The premise of the channel protection standard is that runoff would be stored and released in such a gradual manner that critical erosive velocities would seldom be exceeded in downstream channels. MacRae (1991) found that the traditionally used 2-year control approach failed to protect channels worn into more sensitive boundary materials and actually aggravated erosion hazard in very sensitive channels. Therefore, MacRae (1991) developed the distributed runoff control (DRC) as a method to vary the degree of control from the 2-year control to the 80% over control based on the strength of boundary material. A study done in Maryland (Cappuccitti, 2000) showed that “the CPv and DRC methods provide a comparable level of management.” Additionally, the Center for Watershed Protection (CWP) recommends the use of the channel protection criteria stating that “the criterion balances the need to use a scientifically valid approach with a methodology that is relatively easy to implement in the context of a statewide program.” (CWP, 2000) VTDEC believes that if future growth complies with the channel protection standard as well as the groundwater recharge treatment standard, Moon Brook will be able to meet both the high and low flow targets of the TMDL.

For “jurisdictional” new growth relative to the low flow targets, the Vermont Stormwater Management Manual groundwater recharge treatment standard requires that predevelopment recharge volumes be maintained, thus providing adequate protection.

As to “non-jurisdiction” new growth (i.e. new impervious surfaces less than one acre), runoff from which could contribute to stream degradation, the Agency has allocated additional stream flow reductions from current conditions to account for these potential impacts. This allocation is based on future growth estimates of “non-jurisdiction” impervious surfaces within the Moon Brook watershed. Based on current development patterns and potential for future growth, 25 acres was estimated to be an appropriate future growth target. By requiring reductions from currently developed areas that are equal to the future impacts of the additional 25 acres, this type of future development should have no effect on the overall watershed stream flow targets. The same approach has been applied to the low flow targets.

Based on a subsequent P8-UCM model run, the projected 25 acres of impervious surfaces increased the flow at the 0.3% high flow point on the FDC from 9.9587 to 10.0648

cfs/mi². The flow at the 95% low flow point on the FDC remained unchanged at 0.2030 cfs/mi².

Overall Allocation

In the broadest sense, the primary function of a TMDL is to determine and allocate among sources the maximum pollutant loading a waterbody can receive to maintain compliance with the appropriate water quality standard. For the Moon Brook TMDL, it's the stormwater runoff volume that is being limited overall and allocated among sources. This approach works well within the TMDL framework for the high flow target whereby an overall reduction of stormwater runoff is required. However, this approach does not fit particularly well for the low flow target where an increase in non-stormwater instream flow is necessary and loading of stormwater runoff volume is not directly being allocated. The restoration of low flows in Moon Brook is actually a secondary result of controlling stormwater runoff (high flows) to increase groundwater recharge. As stormwater runoff volumes are controlled (high flow reductions), the water that eventually reaches the stream (low flow increases) is no longer considered stormwater runoff because it is generally routed through the groundwater and does not reach the stream for a significant amount of time following the precipitation event.

Also, the benefit of decreased pollutant loading (sediment, nutrients, etc.) due to reduced stormwater runoff at high flows provides a good fit, although indirectly, within the TMDL framework. The same cannot be said of the low flow targets. The low flow targets represent conditions where pollutants are already substantially removed from water the stream receives from groundwater and thus there are no problematic "pollutants" to allocate.

For these reasons, EPA does not consider the low flow targets applicable to an allocation scenario and thus they will not be presented as such in this TMDL. Therefore, Table 7 gives the overall Moon Brook TMDL allocation for the high flows and Table 8 presents the overall Moon Brook targets for the low flow condition.

It should be emphasized here that even though the low flow targets are not part of the formal TMDL allocation, VTDEC remains committed to including these low flow targets within the remediation plan for the watershed.

Table 7. Moon Brook TMDL high flow allocation at Q0.3%.

Wasteload Allocation	Stormwater reduction from current Urban/Developed areas	10.8%	11.9%
	Additional stormwater flow reduction from Urban/Developed areas to account for future growth	1.1%	
Load Allocation	Stormwater reduction from Agriculture/Open areas		0.1%
Total Moon Brook watershed stormwater flow reduction allocation at Q0.3%			12.0%

Table 8. Moon Brook low flow targets at Q95%.

Wasteload Allocation	Base flow increase from current Urban/Developed areas	23.9%	23.9%
	Additional base flow increase from Urban/Developed areas to account for future growth	0.0%	
Load Allocation	Base flow increase from Agriculture/Open areas		0.2%
Total Moon Brook watershed base flow increase target at Q95%			24.1%

Reasonable Assurances

When a TMDL is developed for waters impaired by both point and nonpoint sources, and the wasteload allocation is based on an assumption that nonpoint source load reductions will occur, EPA’s TMDL guidance provides that a TMDL must provide reasonable assurances that nonpoint source control measures will achieve expected load reductions in order for the TMDL to be approvable. In order to allocate loads among both nonpoint and point sources, there must be reasonable assurances that nonpoint source reduction will in fact be achieved. Where there are not reasonable assurances, under the Clean Water Act, the entire load reduction must be assigned to point sources.

As discussed earlier, this TMDL has been structured with an aggregate wasteload allocation category that includes both NPDES-regulated stormwater discharges and non NPDES-regulated stormwater discharges. Under the Clean Water Act, the only federally enforceable controls are those for point sources through the NPDES permitting process. However, VTDEC implements both a federally-authorized NPDES permit program for stormwater discharges from construction activities, industrial activities and municipal discharges under the MS4 program and a state-authorized permitting program for stormwater discharges from impervious surfaces equal to or greater than one acre. VTDEC is, therefore, well positioned to require implementation of stormwater treatment and control measures through NPDES permit conditions and state stormwater permit conditions for discharges in the urban/developed land category. This wasteload allocation category constitutes a 99% weighted influence on stormwater runoff.

The load allocation is comprised of the agriculture/open land use category that constitutes a 1% weighted influence on stormwater runoff. VTDEC believes that nonpoint source control measures that will be implemented through Vermont’s Clean and Clear Action Plan will achieve the minimal load reductions set forth in this TMDL. Although the Clean and Clear Action Plan is primarily a phosphorus reduction plan, action items in that Plan will also benefit the stormwater-impaired streams in the Champlain Basin. These action items include:

- Expand the Conservation Reserve Enhancement Program statewide to create conservation easements on farms along streams for buffer implementation.
- Provide technical assistance by Agricultural Resource Specialists to help farmers statewide with best management practices, riparian buffer conservation, nutrient

management, compliance with Accepted Agricultural Practices, basin planning, and other technical needs.

- Support agricultural participation in the basin planning process.
- Hire Watershed Coordinators for Lake Champlain Basin watersheds to help develop and implement river basin plans.
- Expand the Department's River Management Program to promote stream stability and reduce phosphorus loading from stream bank and stream channel erosion in the Lake Champlain Basin through a comprehensive program of assessment, protection, management, restoration, and education, with additional federal funding being sought from the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and other agencies.
- Enhance the Vermont Better Backroads Program throughout the Lake Champlain Basin with staffing for technical assistance and increased funding for erosion control grants to towns.
- Offer technical assistance to towns in the Lake Champlain Basin seeking to provide better water quality protection through local ordinances and other municipal actions.
- Protect and/or restore riparian wetlands.

The nonpoint source phosphorus reduction activities listed in the Lake Champlain Phosphorus TMDL implementation plan will be actively pursued, contingent on the availability of state and federal funding and the provision of other necessary authority to the Department to carry out these implementation activities. Vermont Governor Douglas announced his "Clean and Clear Action Plan" on September 30, 2003. A major focus of this plan is implementation of the Lake Champlain Phosphorus TMDL.

A total of \$5.2 million in state funds was approved by the Vermont General Assembly for state fiscal year 2008 for the Clean and Clear Action Plan. This follows the \$8.1 million and \$9.5 million state appropriation in FY2006 and FY2007 respectively. These funds are being used to support the above mentioned activities, and others, by the Agency of Natural Resources, the Agency of Agriculture Food and Markets, and many partners.

Implementation Plan

EPA is not required to and does not approve TMDL implementation plans. Moreover, TMDLs are not legally required to include implementation plans. Despite this, the Agency has provided below a brief description of the general framework that it anticipates using to implement this TMDL. The Agency is providing this general description to aid the public in understanding the myriad of tools that the Agency possesses to effectively implement this TMDL. This framework may change over time based on new information gathered by VTDEC and as necessary to meet the requirements of this TMDL.

As a starting point, the Agency has been undertaking various projects to collect information to aid in the development of the implementation plan and in monitoring to assess the success of the plan as it is implemented and make necessary adjustments to the implementation plan. These projects include stream geomorphic assessment, subwatershed mapping, flow gaging and precipitation monitoring, impervious surface mapping and engineering feasibility assessment

Stream Geomorphic Assessment

In order to support the monitoring phase of stream remediation efforts, ANR has contracted with UVM and various consultants to develop a consistent baseline of stream geomorphic assessments (SGAs) for the stormwater-impaired streams, including Moon Brook. These SGAs can be used as a point of comparison for future assessments to document improvements or degradation of these streams on a set of reaches from stormwater-impaired streams.

Subwatershed Mapping

The objective of this project is to identify discharge points within the stormwater-impaired watersheds and delineate the associated watersheds for those discharge points. The previously available subwatershed data is of varying quality. In some cases, there was data on stormwater collection systems and discharge points. However, all of the watersheds took a substantial amount of work to get an accurate subwatershed delineation. The delineation of these sub-watersheds will help to focus stormwater treatment and control measures on higher risk areas within each stormwater-impaired watershed.

Flow Gaging and Precipitation Monitoring

Altered hydrology within the stormwater-impaired watersheds is the dominant factor in causing the impairments. To support the monitoring phase of stream remediation, ANR, through a contract, established and operates stream flow and precipitation recording stations within each of the stormwater-impaired waters. This data will form an essential part of the adaptive management approach (discussed below) as stream flow is anticipated to reflect the initial response of Moon Brook to stormwater treatment and control measures that are implemented in accordance with this TMDL.

Impervious Surface Mapping

ANR is mapping the impervious surface area of each stormwater-impaired watershed using QuickBird satellite data. The QuickBird satellite acquires high-quality satellite imagery for map creation, detection of change over time, and image analysis. This project is being undertaken in conjunction with the School of Natural Resources at the University of Vermont.

ANR has performed the digital analysis of the data for the Moon Brook watershed. UVM will apply advanced object oriented eCognition classification techniques to potentially improve the mapping accuracy for the previously analyzed data using the QuickBird

satellite data. This data will be used in developing the implementation plan for this TMDL.

Engineering Feasibility Assessment

To help develop the implementation plan for this TMDL, ANR is currently collecting technical data for all significant stormwater treatment practices (including ponds, infiltration basins, constructed wetlands, etc.) in the Moon Brook watershed. Technical information including pond volume, drainage area and detention time is being collected through permit review and site modeling using HydroCAD software. Once information is collected, site visits are conducted to ensure the accuracy of data. In addition to data collection, ANR is also conducting a limited engineering feasibility analysis at each site to determine what can reasonably be achieved at each site with regard to stormwater detention and infiltration.

Vermont BMP Decision Support System

In order to implement appropriate restoration efforts, it is important to identify and size the appropriate best management practices (BMP) to achieve the watershed target. Because there are a plethora of BMP type, size, and location combinations, this type of analysis is typically extremely time-consuming. It may require numerous computer model iterations and a significant data pre- and post-processing effort. The urban nature of the stormwater impaired Vermont watersheds and their inherent spatial limitations make them particularly difficult and time-consuming to evaluate. Restoration may require implementing a large number of small-scale BMPs. To increase the efficiency in evaluating these watersheds, a BMP modeling tool that considers type, sizing, and placement and produces results that can be compared to the TMDL targets is being developed. This modeling tool is the Vermont BMP Decision Support System (VT BMP DSS). The VT BMP DSS will help to evaluate where the implementation of stormwater treatment and control will result in the greatest improvements on the flow regime, and ultimately the water quality in the watershed.

Watershed-Wide General Permits and NPDES Permits

As discussed above, Vermont is authorized to implement both a federally-authorized NPDES permit program for stormwater discharges from construction activities, industrial activities and municipal discharges under the MS4 program and a state-authorized permitting program for stormwater discharges from impervious surfaces equal to or greater than one acre. This dual permitting authority provides Vermont with powerful tools for requiring stormwater treatment and control practices and monitoring necessary to implement this TMDL.

The Agency currently anticipates that TMDL implementation will be phased and that the Agency will utilize an iterative, adaptive management approach to implementation. The first phase of implementation may involve the issuance of a watershed-wide general permit pursuant to state law and may involve requiring controls through Vermont's federally-authorized NPDES stormwater permit program for municipal discharges, discharges associated with industrial activities and construction discharges. Stormwater treatment and control measures required in the first-round watershed-wide general permit

may include the construction and/or upgrade of stormwater treatment and control systems by specifically identified dischargers of stormwater runoff.

The first-phase permit(s) will include a coordinated and cost-effective monitoring program to gather necessary information on progress toward the TMDL target and water quality standards and to determine the appropriate conditions or limitations for subsequent permits. Such a monitoring program may include BMP evaluation, ambient monitoring, receiving water assessment, or a combination of monitoring procedures designed to gather the necessary information. Based on this information, the permit(s) would be amended, as appropriate, to require implementation of more widespread and/or more stringent treatment and controls or other best management practices as necessary to meet the TMDL targets. This adaptive management approach is a cyclical process in which a permit(s) is periodically assessed and adjustments to the permit(s) are made as necessary.

Monitoring Plan

USEPA recommends a monitoring plan to track the effectiveness of a TMDL. The Framework supports the concept of adaptive management which necessitates a substantial monitoring plan at several levels. The Framework identifies three levels of monitoring that are necessary for an adaptive management process to proceed most effectively. These include monitoring: 1) BMP implementation, 2) the primary stressors in the watershed, and 3) the instream habitat and biological condition. VTDEC intends to institute a comprehensive monitoring plan that addresses all the aspects identified in the Framework. At this point, certain parts of the monitoring plan have already been initiated while it is premature for others to begin. Several of the initiated monitoring programs have been summarized in the previous “Implementation Plan” section.

Since the watershed general permit that will require the implementation of stormwater treatment and control measures necessary to meet the TMDL target for Moon Brook has yet to be developed, there is currently no specific monitoring plan for Moon Brook. However, VTDEC will include requirements for the monitoring components listed in the Framework which might include tracking BMPs implemented, percentage of stormwater treated, percent of land area treated, etc. in the general permit. This should be accomplished relatively easily through database tracking of permits.

Monitoring of the primary stressors in Moon Brook is necessary to reveal if the implementation measures are having the desired impact. To date, some background monitoring has occurred to provide baseline information against which to measure future change. Continuous streamflow monitoring has been initiated in Moon Brook. Also, VTDEC has developed the in-house capability to accurately measure imperviousness within the watershed based on satellite imagery.

Monitoring of habitat condition and biological condition in Moon Brook has also been initiated. A stream geomorphic assessment has been completed which includes an assessment of aquatic life habitat. This data will provide a baseline against which to compare future assessments. Recent biological monitoring has also been conducted to

verify the stormwater impairment listing of Moon Brook. Similarly, this will be used as background data to track future improvements and ultimate meeting of the VTWQS.

Public Participation

A public comment period was established and noticed in both the Rutland Herald and the St Albans Messenger upon the release of the draft Moon Brook TMDL. The comment period ran from July 11 through September 5, 2008. In conjunction with the release of the draft TMDL, two informational public meetings were conducted, one in Rutland on August 27, 2008 and another in St Albans on August 28, 2008 to present the TMDL and to answer any questions. Additionally, notification of the public informational meeting was posted to the Vermont Department of Libraries website.

At the close of the public comment period, VTDEC had received comments from three parties. A response summary is given in Appendix A.

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Appendix A

Summary of Responses to Public Comments

Comments received

Submitted by:	Signed by:	ID
Northwest Regional Planning Commission	Catherine Dimitruk	NWRPC
City of Rutland - DPW	Alan Shelvey	Rutland
Ken Minck	Ken Minck	Minck

Response summary

Some comments have been edited or paraphrased for brevity but every effort was made to preserve the original meaning and context.

1. I am disappointed that this TMDL is only addressing storm water. I was under the impression a “watershed” approach was being taken regarding TMDLs. Rugg brook also has problems starting at the mouth, please see 303d. It’s hard for me to understand why just 1 reach of the 303d issue would be dealt with in isolation. Are other TMDLs in the works for the downstream issues? [Minck]

Response: By their very nature, TMDLs are developed on specific stream reach/pollutant combinations. In the case of Rugg Brook, this stormwater TMDL deals specifically with the stormwater impairment of the upper reaches of the watershed. The lower portion of the watershed is identified as impaired due to E. coli and undefined pollutants associated with agricultural runoff. While there are currently no TMDLs under development for this reach of Rugg Brook, significant assessment, planning and restoration activities continue including the completion of phase 1 and 2 geomorphic assessments and a significant floodplain restoration project aimed to reduce downstream sedimentation and phosphorus loading to St. Albans Bay.

2. Page 3. We note that the map of the Moon Brook watershed is different from and encompasses a larger area than on any map previously presented by the Agency. The new map shows a significant area in the vicinity of Park Street is now in the watershed. There are multiple low lying areas within the new watershed boundary that do not have a visible outlet. [Rutland]

Response: The watershed boundary presented in the TMDL is the latest and most detailed information VTDEC has on the Moon Brook watershed. These data were developed through an extensive investigation into the watershed boundaries of all the stormwater impaired watersheds in Vermont. Information developed from this investigation is presented in the report entitled *Stormwater Impaired Watershed Mapping Report* dated 2/24/06. This current mapped version of the Moon Brook watershed has been posted to the Water Quality Division’s web site for approximately the last two years.

3. Page 4. The impairment is noted as extending from the confluence with Otter Creek up stream to mile point 2.3 (the discharge of Combination Pond). This is consistent with the evidence that implicates temperature rise in the pond as a primary cause of impairment. Stormwater as the pollutant is a surrogate for sediment. The fact that the impairment begins where in-stream sediment is minimal or non-existent, immediately downstream of a huge and very effective sediment trap (Combination Pond) further boosts that argument. [Rutland]

Response: VTDEC contends, and as has been communicated to the City of Rutland in writing, that it is at the lowest biomonitoring sample site on Moon Brook (0.3 miles from the mouth) by which Water Quality Standards compliance is measured regarding the stormwater impairment. VTDEC does not dispute that while increased water temperature is indeed a stressor of the biotic community in Moon Brook, particularly trout in the upper watershed below the ponds, there are indicators that stormwater runoff is the primary stressor across the watershed, especially as indicated at sampling results at the lowest monitoring point.

4. Page 14. The coincident of the graphs in Figure 5 does not seem to support a significant expenditure of resources to reduce stormwater related flows in Moon Brook. [Rutland]

Response: As noted in the TMDL, the high flow reduction target from current modeled conditions is 12%. Across the spectrum of the stormwater impaired streams for which TMDLs have been developed, this percent flow reduction is relatively modest. However, at this time watershed-specific implementation planning and cost estimates have not been developed to estimate the resources required to achieve this target.

5. The computer modeling exercise has determined that an appropriate 0.3% flow for Moon Brook is 8.87 cfs/sq. mi. Thus, with an area of 5,545 acres (8.66 sq. mi.) the 0.3% stream flow consistent with attainment is 76.81 cfs. There is no mention of an adjustment for the runoff collected in the combined sewer system. When one deducts the runoff from the heavily developed area served by that system one may find that the calculated flow is below that figure. [Rutland]

Response: Adjustments to account for the area of the watershed that drains to the combined sewer will be addressed in the watershed modeling phase of the implementation planning process.

6. We question whether it is appropriate to develop a TMDL for a non-MS4 community. [Rutland]

Response: As provided in the Federal Clean Water Act, implementing regulations and USEPA guidance, there are no provisions that prohibit TMDL development for a non-MS4 regulated community. On the contrary, TMDLs are required for each

pollutant/waterbody combination identified on Vermont's 303(d) List of Impaired Waters.

7. A significant amount of land area within the Stevens Brook impaired watershed is drained to areas outside of the impaired boundary either to a location further downstream or to the City wastewater treatment plant. The NRPC is working closely with the City of St Albans to map these areas and will provide this data to DEC in the coming year. The TMDL should address how these areas will be handled, given that they are not currently impacting the impaired portions of the stream. [NWRPC]

Response: VTDEC is aware of the potential that several areas within the current presumed watershed boundary may drain to areas outside the impaired watershed or to the wastewater treatment facility. However, at this time VTDEC is not aware of any finished mapping product that delineates these areas. Upon its completion, VTDEC will look to incorporate this information in the development of an implementation plan. VTDEC appreciates the efforts of the NWPC and the City of St Albans to further develop this critical information.

8. The diversion structure that links Stevens and Rugg Brooks is perhaps the most unique feature of this watershed. While the TMDL notes the need for more information regarding the impact of the diversion structure, it does not assign specific responsibility for the task. Without this information, there is no way to accurately assess the watershed area affecting the brooks below the diversion structure. Furthermore, in high rain events, there is no way to distinguish the contribution of stormwater runoff from the contribution of the diversion structure in the lower section of Rugg Brook. Given that DEC's stream gages are below the diversion structure, it will be critical to better understand how it functions if we are to accurately assess our progress toward meeting the established targets. [NWRPC]

Response: Incorporation of the diversion's effects on watershed hydrology, and thus the TMDL targets, will be addressed to the fullest extent possible in the development of the watershed-specific implementation plans. VTDEC agrees that more detailed information will be necessary to fully understand the impact of the diversion on the hydrologic regime of these two streams. As implementation planning moves forward, VTDEC is interested in developing or partnering to develop these data. However, resources are not currently available for VTDEC to commit to this project.

9. The TMDL should include the land use maps and the impervious cover maps that have been developed by DEC, as these provided data that was used in the development of the TMDL. [NWRPC]

Response: Information related to the land use and impervious cover data are presented in the document referenced in the TMDL as “*Stormwater Modeling for Flow Duration Curve Development in Vermont*” (Tetra Tech, 2005).

10. According to the TMDL there is very little biological data for Stevens and Rugg Brooks. Given that this is the basis for the impaired designation, the TMDL should provide a clear indication of how often biological data will be monitored in the future and what will be considered acceptable. DEC should also consider that the other factors, such as toxics and poor habitat due to channel modifications, may also have significant impacts on biota. [NWRPC]

Response: Recommendations for the frequency of biological monitoring are currently in development. In evaluating the biological condition of the stormwater impaired streams, the VTDEC takes a holistic approach and aims to integrate all available information to formulate a stream-specific evaluation of contributing stressors.

11. The TMDL assumes that decreasing high flows will adequately address the issues of low flows. In order for this to be true, we need to prioritize practices that infiltrate stormwater and recharge the groundwater. However, DEC has recently waived in their support of small-scale infiltration practices and propose to resolve any contradictions with the Underground Injection Control permit. [NWRPC]

Response: VTDEC does more than assume that controlling high flows will adequately address the low flow targets. VTDEC has developed a comprehensive predictive modeling tool that can indicate whether or not the low flow targets can be met with any given implementation scenario.

Infiltration practices, including small-scale practices, are allowable for regulated projects under the Vermont Stormwater Management Manual. Currently, some infiltration practices on projects without a Stormwater Discharge Permit may require a permit under the Underground Injection Control (UIC) Rule. The Department is currently in the process of re-drafting the UIC rule to remove any unnecessary regulatory requirements for smaller, benign, infiltration practices.

12. In considering the land that might be available for stormwater projects within the impaired watersheds, DEC should consider the potential brownfields and contaminated sites where infiltration practices are not appropriate. [NWRPC]

Response: The VTDEC Stormwater Manual specifically excludes certain “hot spots” from consideration as sites for infiltration.

13. The TMDL proposes to use a regulatory permitting process to meet targets in developed areas, while relying on voluntary, incentive-based practices in agricultural areas. Some consideration should be given to the fairness of this proposal. The TMDL implementation plan should also address if and how projects in the developed areas might be linked to projects in agricultural areas, such as an offset or mitigation program. [NWRPC]

Response: VTDEC will consider this information during the development of watershed-specific implementation plans.

14. There is little justification for why DEC is expecting 15 acres of new non-jurisdictional development in both the Stevens and Rugg watersheds. [NWRPC]

Response: VTDEC analyzed existing building patterns, land use/cover, and parcel information within the impaired watershed boundaries for Stevens and Rugg Brooks to develop the 15 acre estimate of new non-jurisdictional (<1 acre) impervious surfaces. Admittedly, this can be a rather subjective estimate but VTDEC believes this figure is sufficient for the protection of the streams to move forward with the implementation planning process.

15. The proposed monitoring plan includes using a database to track permits in order to assess progress. This method will only yield valid results if stormwater facilities are modeled and designed correctly and are constructed and maintained as designed. The TMDL should include a plan to inspect and monitor projects to ensure they perform in accordance with their permit. [NWRPC]

Response: VTDEC wholeheartedly agrees that permit compliance is vital to the tracking of stormwater treatment improvements within the stormwater impaired watersheds; however, the specifics of compliance monitoring are best addressed within the framework of the watershed-specific implementation plan that will be established to meet the hydrologic targets of each respective TMDL.