



June 12, 2026

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Oregon Department of Environmental Quality (DEQ)

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Re: Middle Columbia-Hood (Miles Creeks) Temperature TMDL Rule Advisory Committee

Thank you for the opportunity to review and provide relevant feedback on the draft update to the Middle Columbia-Hood (Miles Creeks) Temperature Total Maximum Daily Load (TMDL) update. I am writing to you in my capacity as the Planning Division Director for Wasco County and as a member of the TMDL Advisory Committee.

Below are our specific comments:

1. Table Correction: Wasco County Area of Jurisdiction

Reference: Section 5.1.2 Table 4 (Page 14).

In Table 4, the "Area of jurisdiction" for Wasco County is currently listed as: *"Urban, rural land use, including zoning, permitting and riparian protection..."*

This description is not accurate. As a county government, Wasco County does not hold land use, zoning, or permitting jurisdiction within incorporated "Urban" areas (the cities within our borders possess their own municipal authority over urban land use). Although Wasco County Building Codes Services does possess building codes jurisdiction over both the unincorporated areas and the incorporated communities, Wasco County's land use jurisdiction is strictly limited to rural and unincorporated areas.

Perhaps the word "Urban" was used mistakenly, or is meant to describe specific situations, but Wasco County's area of jurisdiction should be accurately provided.

2. Substantive Impacts: New "Streamside Evaluation" Requirement

Reference: Table 4 (Page 14); Section 5.3.1.1 (Pages 24–25).

Under the proposed update, Wasco County is newly required to conduct and submit what appears to be a highly technical "Streamside Evaluation." This requirement mandates that the County quantify, in acres, the streamside areas needing enhancement, areas with physical or jurisdictional constraints, and locations with the potential for instream restoration or cold-water refuges.

This Streamside Evaluation was not a requirement under the previous 2008 Miles Creeks TMDL. While we understand the value of analyzing spatial data in prioritizing the implementation of management strategies, Wasco County lacks the internal funding, staff capacity, and technical Geographic Information System (GIS), environmental (riparian ecology or botany), hydrology, and other specialized expertise required to perform this level of rigorous work.

Wasco County Geographic Information System Division shared data layers detailing property ownership and zoning data with the DEQ. These data clearly demonstrate that the overwhelming majority of the Miles Creek Subbasin waterbodies fall within private property. While Wasco County has authority to regulate uses and development in unincorporated areas (Building Codes Services within incorporated communities), it does not have authority or the legal right to physically cross or occupy private property. The scope of land use jurisdiction is limited to the requested use and/or development. The provided tasks to obtain information for streamside evaluations appear to be quite technical and would require physical on-site data acquisition. The jurisdictional constraints alone would highly likely make this operationally and legally an infeasible mandate.

It is important to note that the DEQ acknowledges this difficulty on Page 24, stating:

DEQ recognizes that responsible persons, including DMAs, may not have adequate resources or expertise to perform all the actions listed in a–g. DEQ encourages responsible persons, including DMAs, reach out to and partner with local watershed groups and Soil and Water Conservation districts in the area to help evaluate areas within the DMAs jurisdiction and target locations for implementation activities. Additionally, DEQ will provide technical assistance to DMAs and may modify expectations to suit their abilities and capacity. (p. 24)

In preparation for these comments, County staff inquired with the Wasco County Soil and Water Conservation District (SWCD) about streamside evaluation actions listed in Section 5.3.1.1.a-g. At this time, the SWCD performs some vegetation assessment work, but does not follow the streamside evaluation steps outlined in the draft TMDL. Further, Section 5.3.1.1, provides that the DEQ “will provide technical assistance” (non-discretionary) to DMAs, but it is unknown what the scope of the technical assistance shall be. Lastly, the DEQ “may modify expectations to suit [DMA] abilities and capacity” (discretionary); however, there is no information or examples provided that detail what information or thresholds the DEQ needs from DMAs to demonstrate their limited abilities and capacity. If the DEQ has the discretion to grant DMAs a modification to streamside evaluation expectations (essentially a variance) to suit a DMA’s “abilities and capacity” the criteria used in the decision should be clearer.

The addition of “Streamside Evaluations” will pose a significant new administrative and technical burden that may reduce Wasco County’s ability to timely and accurately develop implementation strategies. The cost-benefit of this new requirement should be examined. Are there other options? Perhaps a simplified alternative compliance pathway for rural DMAs would be amenable.

Respectfully,

Daniel Dougherty
Planning Director
Wasco County Planning Division