

How did 40 lakes get on Missouri's 303(d) list?

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2020 303(d) Chronology

- ▶ June 26, 2020 – MDNR submits list to EPA
- ▶ November 30, 2020 – EPA proposed list
- ▶ March 16, 2021 – MDNR comment letter
- ▶ September 9, 2021 – EPA issues final decision

EPA's Proposed Decision

November 30, 2020

- ▶ Adds 40 lakes impaired by nutrients
- ▶ MDNR failed to evaluate “all existing and readily available water quality-related data and information.”

EPA Asserts MDNR Ignored Data

- ▶ MDNR did not consider eutrophication factors after a screening threshold exceeded.
- ▶ Eutrophication factors
 - ▶ **Fish kill events,**
 - ▶ Epileptic DO excursions,
 - ▶ Cyanobacteria,
 - ▶ Shifts in aquatic diversity, and
 - ▶ Excessive levels of mineral turbidity.

EPA Asserts MDNR Ignored Data

- ▶ Did not consider fish kill events
- ▶ Data older than 7 years

MDNR Comment to EPA

March 16, 2021

- ▶ EPA relied on fish kill data that were not MDNR verified
- ▶ MDC does not verify all fish kill reports.
- ▶ Data is a “unknown quality or assurance.”

MDNR Comment to EPA

- ▶ “Unverified fish kills are not suitable for assessment purposes – lack quality assurance and documentation.”
- ▶ Fish kill data did not have “corroborating measurements of dissolved oxygen, temperature, pH, nutrients or other factors which would point to eutrophication as the cause of the fish kill.”

MDNR Comment to EPA

- ▶ EPA cites fish kill newspaper articles as supporting “evidence”
- ▶ Lake Expo – June 29, 2018
- ▶ 2019 Spring/summer edition Lake News and Shoreline Views
- ▶ Is there a QAPP for newspaper articles?

MDNR Comment to EPA

Data Older than 7 Years

- ▶ “EPA is proposing to list 14 lakes that lack recent data. . . .”
- ▶ Lake data “can be widely variable and older data may not represent current conditions.”
- ▶ Older data may be ignored with sufficient justification

MDNR Comment to EPA

- ▶ Majority of the Lake of the Ozarks watershed is in the Plains ecoregion, not the Ozark Highlands ecoregion
- ▶ 71% of the nitrogen loading and 63% of the nutrient phosphorus loading comes from Truman Reservoir

EPA Final Decision

September 9, 2021

- ▶ “70% of Commenters Provided Support For The EPA Listing Additional Lakes.”
- ▶ “Response: The EPA acknowledges the comments and support.”
- ▶ 303d list now a popularity contest

EPA Final Decision

- ▶ “Changing the lake of the Ozarks ecoregion would not be appropriate . . . even if there is more nutrient loading from Truman reservoir.”
- ▶ MDNR may develop site specific criteria but should not re-categorize the lake based on contributions from another watershed.

NEXT STEPS

- ▶ Revise Lake Nutrient Rule (limit reliance on fish kill data)
- ▶ Revise LMD to require fish kill QA/QC
- ▶ Site Specific Criteria for Lake of the Ozarks
- ▶ TMDL for the Lake of the Ozarks
- ▶ Phosphorus limits like Table Rock Lake
- ▶ Missouri Coalition for the Environment lawsuit and permit appeals
 - ▶ Development moratorium



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