US EPA ARCHIVE DOCUMENT

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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San Francisco, CA 94105-3901

JUL 3 1 2009

Mr. Henry R. Darwin
Acting Director
Water Quality Division
Arizona Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007

Dear Mr. Darwin:

Thank you for submitting Arizona's Clean Water Act (CWA) combined 2006-2008 Integrated Section 305(b) Assessment and 303(d) Listing Report ["Integrated Report"], received on December 17, 2008, and the State's supplemental submittal in response to EPA's request for additional data, received on January 13, 2009. I commend Arizona Department of Environmental Quality (ADEQ) for its strong effort to assemble and evaluate available water quality-related information, and for the clarity with which its assessment findings are presented in the submittals.

Based on our review of the submittal, EPA has determined that Arizona's 2006-2008 list of 54 water quality limited segments (WQLSs) still requiring TMDLs partially meets the requirements of Section 303(d) of the Clean Water Act and EPA's implementing regulations. Therefore, by this order, EPA hereby partially approves and partially disapproves Arizona's 2006-2008 Section 303(d) list. Specifically, EPA approves the State's decision to list the 54 waters and associated pollutants identified in the Integrated Report table captioned "Category 5 (ADEQ) – Assessed Impaired by ADEQ." However, EPA disapproves the State's decision not to list 23 additional water bodies, and additional pollutants for 5 waters already listed by the State. EPA finds that these additional waters and pollutants meet federal requirements for listing under Section 303(d). The statutory and regulatory requirements, and a summary of EPA's review of Arizona's compliance with each requirement, are described in the attachment to this letter.

EPA is identifying for inclusion on Arizona's Section 303(d) list 23 additional water bodies, and additional pollutants for 5 waters already listed by Arizona. The specific waters and pollutants that EPA is adding are identified in Table 1 of the attached Staff Report. EPA will open a public comment period to receive comments concerning our decision to add waters and pollutants to the State's Section 303(d) list. After we consider comments received from the public and make any appropriate revisions to today's determination identifying additional waters and pollutants, we will transmit the final 2006-2008 Section 303(d) list to you.

EPA identified two situations in which waters and associated pollutants do not attain water quality standards but were not listed on the Section 303(d) list by the State. First, EPA found that narrative water quality standards are not being implemented in several waters for

which fish consumption advisories are currently in effect. Second, EPA found that available water quality data and information demonstrate that numeric water quality standards for specific pollutants are not being attained in several waters.

Arizona's long-term schedule for TMDL development for all waters on the State's 2006-2008 303(d) list is presented in Appendix C of the Integrated Report. As a policy matter, EPA has requested that States provide such schedules. See Memorandum from Robert Perciasepe, Assistant Administrator for Water, to Regional Administrators and Regional Water Division Directors, "New Policies for Developing and Implementing TMDLs", August 8, 1997. While EPA is not taking any action to approve or disapprove this schedule pursuant to Section 303(d), I appreciate Arizona providing this future TMDL development schedule.

The public participation process sponsored by ADEQ included solicitations of public comment through newspaper advertisements and preparation of a responsiveness summary explaining how the State considered public comments in its final listing decisions.

EPA's partial approval and partial disapproval of Arizona's 303(d) list extends to all water bodies in Arizona's 2006-2008 303(d) list with the exception of waters within Indian Country. As defined in 18 U.S.C. Section 1151, EPA, or eligible Indian Tribes, as appropriate, will retain responsibilities under 303(d) for those waters. EPA is taking no action to approve or disapprove the Arizona list with respect to those waters and EPA's decision to identify additional waters and pollutants for inclusion on the 303(d) list does not apply to any waters in Indian Country.

Thank you for your work in developing the 2006-2008 integrated 305(b) assessment and 303(d) listing report. If you have questions on any of the above information, please call me at (415) 972-3572 or Peter Kozelka at (415) 972-3448.

Sincerely yours,

Alexis Strauss 31 July 2009

Alexis Strauss
Director, Water Division

cc: Linda Taunt, ADEQ
Steve Pawlowski, ADEQ

Attachment