



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

FEB 25 2010

Mr. Scott Totten, Acting Director
Water Protection Program
Water Protection and Soil Conservation Division
Missouri Department of Natural Resources
P. O. Box 176
Jefferson City, Missouri 65102

Dear Mr. Totten:

RE: Permit in Lieu of a Total Maximum Daily Load (TMDL) for McKenzie Creek
(WBID 2786)

This letter responds to the submission from the Missouri Department of Natural Resources (MDNR) dated February 1, 2009, regarding McKenzie Creek. McKenzie Creek was listed as impaired on Missouri's 2008 §303(d) List for dissolved oxygen (DO). MDNR proposes to correct the impairment with a National Pollutant Discharge Elimination System (NPDES) permit in lieu (PIL) of a TMDL. The following water body segment is proposed to be corrected through permit limits.

Water Body	WBID	Impairment	Source	Permit #
McKenzie Creek	2786	Dissolved Oxygen (DO)	City of Piedmont Wastewater Treatment Facility (WWTF)	MO-0047341

Waters require TMDLs when certain pollution control requirements are not stringent enough to implement water quality standards (WQS) for such waters. To exempt an impaired water from the TMDL process, the pollution control requirements cited in the regulation under 40 CFR §130.7(b)(1)(i), (ii), and (iii) must be established and enforced by federal, state, or local laws or regulations, and be stringent enough that, when applied, the receiving water will meet WQS.

The City of Piedmont's WWTF has been identified as the sole source of the low DO impairment on McKenzie Creek. The listing was based on the history of violations for exceeding the existing NPDES permit effluent limits. MDNR issued the Piedmont WWTF permit on July 3, 2008, with effluent limits to ensure stream WQS will be met. The minimum

DO of 5.0 milligrams per liter (mg/L) will be achieved by limiting biological oxygen demand (BOD) in the effluent to 20 mg/L daily maximum, and 10 mg/L monthly average. The previous permit had limits for effluent BOD of 65 mg/L weekly average, and 45 mg/L monthly average. The City of Piedmont is currently under enforcement action due to the Piedmont WWTF not meeting effluent limits for BOD and total suspended solids (TSS). Abatement Order on Consent (AOC) No. 997, between the City of Piedmont and MDNR was signed January 21, 2009.

The agreement in the AOC has two phases. Phase I requires interim upgrades and/or operational changes that will enable the city to comply with its current permit limits. Phase II requires an upgrade or replacement of the WWTF that enables its effluent to meet the new limits. A detailed compliance schedule is included in the AOC with targets tied to the interim and final upgrades of the Piedmont WWTF. The new effluent limits will go into effect on July 3, 2011. Permit limits, which will achieve WQS for DO, will be imposed immediately on issuance. Ambient stream monitoring by MDNR will be scheduled following completion of the upgrades to determine if the new permit limits have eliminated the impairment. The new permit will require monthly instream monitoring of DO downstream of the facility outfall. To verify if permit limits are being achieved the monthly instream monitoring includes: ammonia as nitrogen, TSS, oil and grease, fecal coliform, total residual chlorine, chloride, temperature, and pH. The permit includes a reopener clause to allow for stricter limits if monitoring shows WQS violations.

Federal regulations at 40 CFR §130.7(b)(1)(ii) provide that where ["more stringent effluent limitations (including prohibitions) required by either state or local authority preserved by section 510 of the Act, or Federal authority (law, regulation, or treaty)"] are stringent enough to implement WQS, a TMDL is not required. The 2006 Integrated Report Guidance identifies these waters as eligible for category 4b of the Integrated Report (IR). The United States Environmental Protection Agency (EPA) has completed its review of the submission and information supporting this 4b and concur that as such a TMDL is not required for this impaired water body. The permit actions appear sufficient to address the impairment.

Enclosed with this letter is the Region 7 4b Rationale Document which summarizes EPA's approval of the TMDL alternative which enables the states to place the water into category 4b of the IR. EPA believes the separate elements of this submittal described in the enclosed document adequately address the pollutant of concern.

If you have any questions or concerns in regards to this matter, please contact Tabatha Adkins at (913) 551-7128.

Sincerely,


William A. Spratlin
Director
Water, Wetlands and Pesticides Division