UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
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DALLAS, TX 75202-2733

JUN 18 2008

Mr. Steve Drown, Chief
Water Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

Dear Mr. Drown:

Thank you for submitting Arkansas' 2008 §303(d) List of Water Quality Limited Segments. The Environmental Protection Agency (EPA) has conducted a complete review of the submittals dated April 1, 2008 and May 15, 2008, supporting documentation, and supplemental information provided at EPA's request. I would like to acknowledge the efforts of ADEQ staff who worked closely with EPA in the development of this list.

Based on this review, EPA has determined that Arkansas' 2008 list of water quality limited segments (WQLSs) still requiring Total Maximum Daily Loads (TMDLs) partially meets the requirements of Section 303(d) of the Clean Water Act ("CWA" or "the Act") and EPA's implementing regulations. Arkansas' water body listing and priority ranking decisions meet the listing requirements. However, Arkansas' decisions not to list several waters and pollutants identified in Appendix IV of the enclosed Record of Decision do not meet the listing requirements. Therefore, by this letter, EPA approves Arkansas' decision to list three hundred sixty nine (369) water body pollutant combinations identified in the State's listing submission and associated priority rankings. Furthermore, EPA is taking neither an approval or disapproval action on thirty-four (34) beryllium listings and twenty (20) water body pollutant pairs that appear to have been listed in error. EPA disapproves the State's decision not to list seventy-three (73) water body pollutant combinations. EPA is further identifying these seventy-three (73) additional water bodies and pollutants with appropriate priority rankings for inclusion on the 2008 Section 303(d) list. EPA will open a public comment period on the additions to the list and will, if necessary, revise the list of added waters and pollutants after we consider any comments received. The statutory and regulatory requirements, and a summary of EPA's review of Arkansas' compliance with each requirement, are described in the enclosed record of decision.

The seventy-three (73) water body pollutant pairs EPA is proposing to add to the 2008 303(d) List can be categorized into five (5) groups (a-e) with a general justification

for the particular category (see table below). For a detailed water by water justification see Appendix IV of the ROD, pages 14-18.

Group	Brief Description	Number
a	State listed in 2006 but not carried forward to 2008; data supports continued listing	14
b	EPA added to 2006 list; data supports continued listing in 2008	26
c	TMDLs are under EPA review; data supports continued listing in 2008	9
d	New 2008 EPA proposed listings: various pollutants	13
e	New 2008 EPA proposed listings: pathogens	11
	Total	73

Based on the newly adopted 4 ug/l MCL criterion for beryllium, only one (1) water body, Chamberlain Creek, is impaired for beryllium. The remaining waters have apparently been listed in error. Therefore, EPA is taking neither an approval or disapproval action on the thirty-five (35) water bodies and lakes listed for beryllium except for Chamberlain Creek (HUC 8040102, reach 971), which EPA is approving.

Two waters, Bayou Meto and Lake DuPree, were reported in Category 4b on the 2004 and 2006 §303(d) Integrated Reports. Bayou Meto was included in Category 5 for the 2008 cycle as impaired for priority organics (PO). Lake DuPree was omitted from the 2006 and 2008 Integrated Reports altogether. EPA believes it was the intent of ADEQ to continue these listings in Category 4b due to the nature of the pollutant and justification provided in 2004. EPA has provided the necessary documentation in the ROD to continue these listings in Category 4b for the 2008 listing cycle. Please note that for the 2010 §303(d) list, ADEQ will need to provide the proper justification to continue listing these two waters in Category 4b.

EPA regulations at 40 CFR §130.7 require that the State provide a priority ranking for each listing and a TMDL development schedule for the next two years. The State provided priority rankings for all listed waters as required by section 303(d) and its implementing regulations. Fifty (50) water body pollutant combinations are targeted for TMDL development in the next two years. This is consistent with the targeting requirement of 40 CFR § 130.7 and the requirements under the consent decree in Sierra Club V. Whitman, case No. LR-C-99-114 (E.D. Ark) which requires twenty (20) TMDLs.

EPA acknowledges that the public participation process carried out by ADEQ included solicitations of public comments through newspaper advertisements, several public hearings, and preparation of a responsiveness summary explaining how the State considered public comment in the final listing decisions. These actions meet the public participation requirements as required in 40 CFR §130.7.

Thank you for your efforts to develop the Final 2008 303(d) list. If you have questions on any of the above information, feel free to give me a call at (214) 665-7101 or call Jessica Franks of my staff at (214) 665-8335.

Sincerely,

Miguel I. Flores
Director
Water Quality Protection Division

Enclosure

cc: Steve Martin, Deputy Director, ADEQ
Sarah Clem, Technical Assistance Manager, ADEQ
Jim Wise, Technical Assistance Manager, ADEQ