



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAY 01 2006

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Mr. Edward Galbraith, Director
Water Pollution Control Program
Water Protection and Soil Conservation Division
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102

Dear Mr. Galbraith:

RE: Permit Limits in Lieu of a TMDL for Elkhorn Creek

This letter responds to the submission from the Missouri Department of Natural Resources (MDNR), dated April 6, 2006, regarding Elkhorn Creek, which was listed as impaired on Missouri's 1998 §303(d) list, for Biochemical Oxygen Demand (BOD). In addition, Elkhorn Creek has had sediment removed and Non-Volatile Suspended Solids (NVSS) added, as a 303 (d) listing. MDNR proposes to correct the impairments with National Pollutant Discharge Elimination System (NPDES) permit limits in lieu of a Total Maximum Daily Load (TMDL). The following water body segment was proposed to be corrected through permit limits.

Table with 6 columns: Water Body, WBID, Impairment, Source, Permit #, Year added to list. Row 1: Elkhorn Creek, 0189, Biochemical Oxygen Demand (BOD) Non Volatile Suspended Solids (NVSS), Montgomery City East Wastewater Treatment Plant (WWTP), MO-0084158, 1998

Waters require TMDLs when certain pollution control requirements are not stringent enough to implement water quality standards for such waters. To exempt an impaired water from the TMDL process, the pollution control requirements cited in the regulation under 130.7(b)(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 water quality standards.

In regards to Elkhorn Creek, federal regulations at 40 CFR 130.7(b)(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 water quality standards, a TMDL is not required. The Environmental Protection Agency

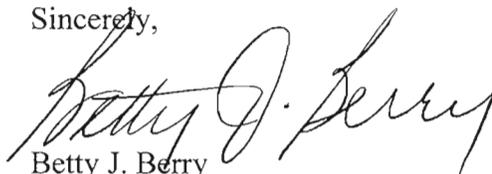


has completed its review of this submission, and other previously submitted information supporting this permit in lieu of a TMDL, and concurs that a TMDL is not required for this impaired water body because the impairment is being addressed through more stringent NPDES permit limits as per 40 CFR 130.7(b)(ii).

The Montgomery City East WWTP has been identified as the sole source for the Volatile Suspended Solids (VSS) and BOD, on Elkhorn Creek, as a result of surface water monitoring directly above and below the WWTP. The NPDES permit was issued on March 24, 2006, for the Montgomery City East WWTP and includes final limits which will take affect March 28, 2008. The 303 (d) listing is also for NVSS. The WWTP's effluent Total Suspended Solids (TSS) includes inorganic material (NVSS) and organic material (VSS). Although the 303 (d) listing was for NVSS, the WWTP data (enclosure) indicates that VSS is a better indicator. The TSS concentrations above the plant are indicative of impairment, other than one outlying value. The VSS concentrations increase immediately after the WWTP. The data indicates no significant NVSS sources above the Montgomery City East WWTP, therefore the permit should be protective of the water quality standards.

If you have any questions or concerns in regards to this matter, please do not hesitate to contact Jack Generaux, TMDL Team Leader, at (913)551-7690, or Tabatha Adkins, TMDL Team, at (913)551-7128.

Sincerely,

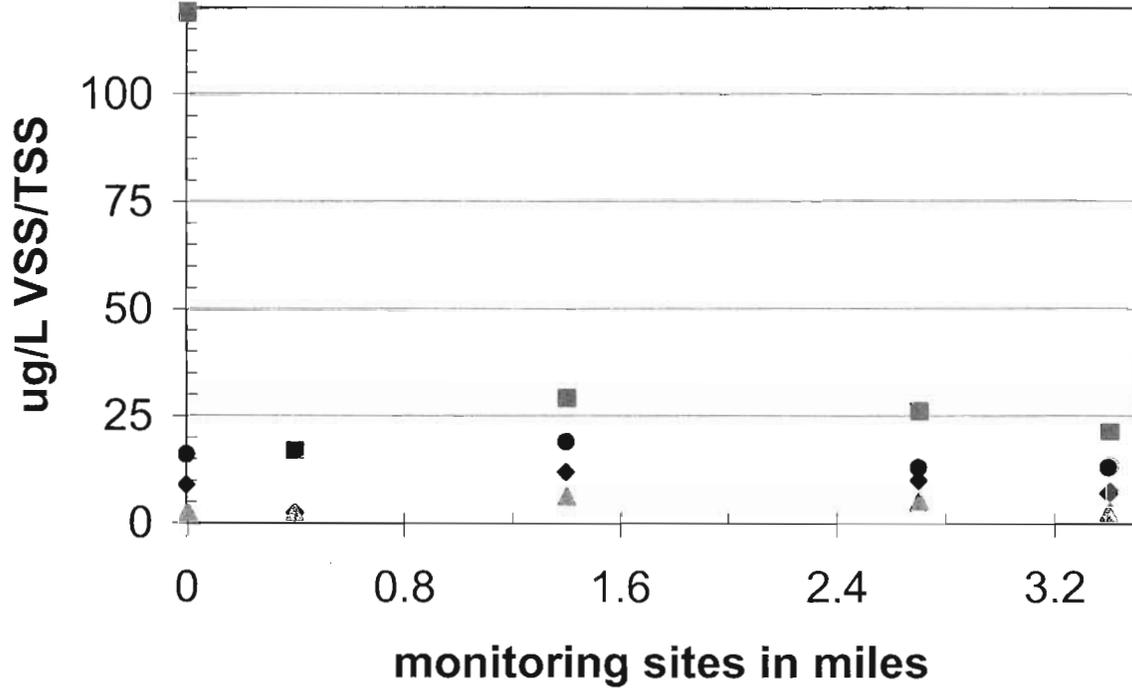


Betty J. Berry
Acting Director
Water, Wetlands, and Pesticides Division

Enclosure

cc: Ann Crawford, TMDL Chief, MO Dept of Natural Resources
Phil Schroeder, Missouri Department of Natural Resources

Elkhorn Creek



◆ TSS Min ■ TSS Max ▲ VSS Min ● VSS Max