



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

DEC 28 2007

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WATER PROTECTION PROGRAM

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 Bynum Creek (WBID 709) and Dog Creek (WBID 510)

This letter responds to the submissions from the Missouri Department of Natural Resources (MDNR) dated November 7, 2007, and December 10, 2007, regarding Bynum Creek and Dog Creek. Bynum and Dog Creeks were listed as impaired on Missouri's 1998 §303(d) list, for sediment and on the 2002 §303(d) list, for Non-Volatile Suspended Solids (NVSS). MDNR proposes to correct the impairments with National Pollutant Discharge Elimination System (NPDES) permit limits in lieu (PIL) of Total Maximum Daily Loads (TMDLs). The following water body segments are proposed to be corrected through permit limits.

Water Body	WBID	Impairment	Source	Permit #	Year added to list
Bynum Creek	709	NVSS	Martens' Construction Company's South Auxvasse Quarry	MO-0133957	1998
Dog Creek	510	NVSS	Trager Limestone, L.L.C.'s Gallatin Quarry	MO-0134091	1998

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 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.

In regards to Bynum Creek and Dog Creek, 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 United States Environmental Protection Agency (EPA), Region 7, has completed its review of



these submissions, and other submitted information supporting these PILs, and concur that TMDLs are not required for these impaired water bodies because the impairments are being addressed through more stringent effluent limitations as per 40 CFR 130.7(b)(1)(ii).

Mertens' Construction Company's South Auxvasse Quarry has been identified as the sole source of the NVSS impairment on Bynum Creek as a result of stream surveys conducted above and below the south quarry. A site specific NPDES permit for Mertens' Construction Company's South Auxvasse Quarry was issued on October 30, 2007. The permit includes a schedule of compliance to commence within 90 days of issuance. Permit limits, which will achieve WQS for NVSS, will be imposed immediately on issuance. In review of the site specific permit, the effluent limits are 70 milligrams per liter (mg/L) daily maximum and monthly average TSS and 1.5 ml/L/hour daily maximum and 1.0 milliliters per liter per hour (ml/L/hour) monthly average Settleable Solids. Additionally, the permit requests instream monitoring with a visual survey of the receiving stream ten yards or less below outfall S1. The permit also includes a reopener clause to allow for stricter limits if monitoring shows WQS violations.

Trager Limestone, L.L.C.'s Gallatin Quarry has been identified as the sole source of the NVSS impairment on Dog Creek as a result of stream surveys conducted above and below the quarry. A site specific NPDES permit for Trager Limestone, L.L.C.'s Gallatin Quarry was issued on November 16, 2007. The permit includes a schedule of compliance to commence within 30 days of issuance. Permit limits, which will achieve WQS for NVSS, will be imposed immediately on issuance. In review of the site specific permit, the effluent limits are 70 mg/L daily maximum and monthly average TSS and 1.5 ml/L/hour daily maximum and 1.0 ml/L/hour monthly average Settleable Solids. Additionally, the permit requests instream monitoring with a visual survey of the receiving stream ten yards or less below outfall S1. The permit also includes a reopener clause to allow for stricter limits if monitoring shows WQS violations.

Enclosed with this letter are the Region 7 4b Rationale Documents which summarize EPA's approval of the PILs. EPA believes the separate elements of the PILs described in the enclosed forms adequately address the pollutant of concern.

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

Sincerely,


William A. Spratlin
Director
Water, Wetlands, and Pesticides Division

Enclosure

cc: John Hoke, MDNR
Rob Morrison, MDNR
Phil Schroeder, MDNR



EPA Region 7 4B Rationale

Water body ID(s): MO_0709

State: MO

Water body Names(s): BYNUM CREEK

Pollutant(s): NON-VOLATILE SUSPENDED SOLIDS (NVSS)

HUC(s): 10300102

Basin:

Tributary(ies): AUXVASSE CREEK

First Listing Cycle: 1998

Submittal Date: 11/7/2007

Approved: Yes

Submittal Letter

State submittal letter indicates final Maximum Daily Load(s) for specific pollutant(s)/water(s) were adopted by the state, and submitted to EPA for approval under section 303(d) of the Clean Water Act. Include date submitted letter was received by EPA and date of receipt of any revisions.

The United States Environmental Protection Agency (EPA) received this submittal with cover letter, check list, final permit, stream survey data, map of quarry, Nationwide permit (NWP) 3 and fact sheet on November 7, 2007.

Concern

A statement of the problem causing the impairment.

The sole source of the impairment is Mertens? Construction Company?s South Auxvasse Quarry (permit numbers: originally general permit MO-G490032 and now site specific permit MO-0133957). The listing was based on stream surveys conducted in 1994 and 1998. Specifically the work yard, stockpiles and creek crossing at the south quarry were listed as the sole source of the impairment. Mineral solids coming from eroding mine waste materials and stockpiles get into the stream and settle on the bottom, smothering natural substrates, aquatic invertebrates and fish eggs.

Implementation Strategy

A description of the proposed implementation strategy and supporting pollution controls necessary to achieve WQS, including the identification of point and nonpoint source loadings that when implemented assure the attainment of all applicable WQS.

A site specific permit was issued on October 30, 2007 to replace the previous general permit. Permit limits include 70 mg/L daily maximum and monthly average for TSS and 1.5 ml/L/hour daily maximum and 1.0 ml/L/hour monthly average for Settleable Solids. This WLA will ensure that water quality standards (WQS) will be achieved through the narrative standards for NVSS.

Time

An estimate or projection of the time when WQS will be met.

October 30, 2007 when the South Auxvasse Quarry was issued the new limits by the site specific permit, WQS should be achieved in Bynum Creek.

Schedule

A reasonable schedule for implementing the necessary pollution controls.

The site specific permit was issued October 30, 2007 and replaces all previous general permits. The South Auxvasse Quarry permit limits remained the same for TSS and Settleable Solids but require all three outfalls to have the same discharge parameters. The final effluent limits will become effective the date of permit issuance (October 30, 2007). The permit also includes a schedule of compliance for the permittee to replace the temporary berm with a permanent berm to direct storm water flow away from the crossing over Bynum Creek within 90 days of issuance (October 30, 2007). Best Management Practices have already been implemented. Berms have been added around all processing and stockpile areas. Permittee rebuilt the creek crossing as specified by the United States Army Corps of Engineers, NWP 3.

Monitoring

A description of, and schedule for, monitoring milestones for tracking and reporting progress to EPA on the implementation of the pollution controls.

Instream monitoring will consist of a visual survey of the receiving stream ten yards or less below outfall S1. Visual surveys will include examination of the nearest downstream riffle and the nearest downstream pool each a section ten feet long by ten feet wide (if the wetted area is less than ten feet, the examined area will encompass the entire stream width). Surveyor shall note and include the date and weather conditions. The report will include estimated percent fines for each riffle and pool, and be submitted with the quarterly discharge monitoring reports to ensure permit limits are being met and WQS are achieved.

Commitment to Revise

A commitment to revise, as necessary, the implementation strategy and pollution controls if progress towards meeting WQS is not being shown.

A reopener clause has been included in the permit to allow for incorporation of stricter effluent limits if monitoring shows that WQS are not being achieved.

******* Pollution control requirements in the submitta*******

National Pollution Discharge and Elimination System (NPDES)



EPA Region 7 4B Rationale

Water body ID(s): MO_0510

State: MO

Water body Names(s): DOG CREEK

Pollutant(s): NON-VOLATILE SUSPENDED SOLIDS (NVSS)

HUC(s): 10280101

Basin:

Tributary(ies):

First Listing Cycle: 2002

Submittal Date: 12/10/2007

Approved: Yes

Submittal Letter

State submittal letter indicates final Maximum Daily Load(s) for specific pollutant(s)/water(s) were adopted by the state, and submitted to EPA for approval under section 303(d) of the Clean Water Act. Include date submitted letter was received by EPA and date of receipt of any revisions.

The United States Environmental Protection Agency (EPA) received this submittal with cover letter, check list, final permit, stream survey data and fact sheet on December 10, 2007.

Concern

A statement of the problem causing the impairment.

The sole source of the impairment is Trager Limestone, L.L.C.'s Gallatin Quarry (permit numbers: originally general permit MO-G490249 and now site specific permit MO-0134091). The listing was based on stream surveys conducted in 1997 and 2000. Specifically eroding mine waste materials and stockpiles at the quarry were listed as the sole source of the impairment. Mineral solids coming from eroding mine waste materials and stockpiles get into the stream and settle on the bottom, smothering natural substrates, aquatic invertebrates and fish eggs.

Implementation Strategy

A description of the proposed implementation strategy and supporting pollution controls necessary to achieve WQS, including the identification of point and nonpoint source loadings that when implemented assure the attainment of all applicable WQS.

A site specific permit was issued on November 16, 2007 to replace the previous general permit. Permit limits include 70 mg/L daily maximum and monthly average for TSS and 1.5 ml/L/hour daily maximum and 1.0 ml/L/hour monthly average for Settleable Solids. This WLA will ensure that water quality standards (WQS) will be achieved through the narrative standards for NVSS.

Time

An estimate or projection of the time when WQS will be met.

November 16, 2007 when the Gallatin Quarry was issued the new limits by the site specific permit, WQS should be achieved in Dog Creek.

Schedule

A reasonable schedule for implementing the necessary pollution controls.

The site specific permit was issued November 16, 2007 and replaces all previous general permits. The Gallatin Quarry permit limits remained the same for TSS and Settleable Solids but require all three outfalls to have the same discharge parameters. The final effluent limits will become effective the date of permit issuance (November 16, 2007). The permit also includes a schedule of compliance for the permittee to develop a Storm Water Pollution Prevention Plan (SWPPP) within 30 days of issuance, implement all conditions of the SWPPP, install secondary containment or remove the on-site petroleum storage tanks, submit a plan for removal of mined material from the stream banks of Dog Creek, all within 90 days of issuance, relocate stockpiles of mined material to eliminate erosion within 120 days of issuance, and complete removal of mined material from the stream banks of Dog Creek within 90 days of MDNR approval of the plan.

Monitoring

A description of, and schedule for, monitoring milestones for tracking and reporting progress to EPA on the implementation of the pollution controls.

Instream monitoring will consist of a visual survey of the receiving stream at outfalls S1 and S2. Visual surveys will include monthly examination of the nearest downstream riffle and the nearest downstream pool, from the locations listed above, each a section ten feet long by ten feet wide (if the wetted area is less than ten feet, the examined area will encompass the entire stream width). Surveyor shall note and include the date and weather conditions. The report will include estimated percent fines for each riffle and pool, and be submitted with the monthly discharge monitoring reports to ensure permit limits are being met and WQS are achieved.

Commitment to Revise

A commitment to revise, as necessary, the implementation strategy and pollution controls if progress towards meeting WQS is not being shown.

A reopener clause has been included in the permit to allow for incorporation of stricter effluent limits if monitoring shows that WQS are not being achieved.

******* Pollution control requirements in the submittal*******

National Pollution Discharge and Elimination System (NPDES)