UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAR 12 2008

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 Dry Auglaize Creek (WBID 1145)

This letter responds to the submission from the Missouri Department of Natural Resources (MDNR) dated November 1, 2006, regarding Dry Auglaize Creek. Dry Auglaize Creek was listed as impaired on Missouri's 1998 §303(d) list and on the 2002 §303(d) list, for biological oxygen demand (BOD) and non-filterable residue (NFR). 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 segment is proposed to be corrected through permit limits.

Water Body	WBID	Impairment	Source	Permit #	Year added to list
Dry Auglaize Creek	1145	BOD and NFR	City of Lebanon wastewater treatment plant (WWTP)	MO-0089010	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 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.

In regards to Dry Auglaize 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) has completed its review of information supporting this PIL, and concur that a TMDL is not required for this impaired water body because the impairments are being addressed through more stringent effluent limitations 40 CFR §130.7(b)(1)(ii).

The city of Lebanon's wastewater treatment plant (WWTP) has been identified as the sole source of the BOD and NFR impairments on Dry Auglaize Creek. The listing was based on the history of violations for sanitary sewer overflows (SSO), particularly at manhole #1, located 100 yards upstream (south) of the WWTP. The reissued permit includes the same interim and final limits for BOD and total suspended solids, however a 2004 consent decree (CD) 04-3125-CV-S-RED between the United States, the state of Missouri and the city of Lebanon mandates monthly reporting of all SSOs and describes the schedule of compliance (SOC) to eliminate SSOs. The SOC includes completion of Goodwin Hollow lift station by June 4, 2008, completion of capacity relief sewers by February 1, 2010, submission of a detailed engineering report, and proceeding with the design and construction of a third oxidation ditch. The CD requirements have enforcement authority to ensure that the city of Lebanon will have corrected the bypassing and met WQS by July 1, 2007. An enforcement letter, Addendum No. 1 to the "Final Report Post-Rehabilitation and Master Plan Update" was issued December 3, 2007. The permit includes quarterly in-stream monitoring upstream of the facility outfall and one quarter mile downstream of the facility outfall, for ammonia as nitrogen, temperature, pH and dissolved oxygen to verify if permit limits are being achieved. The permit also includes a reopener clause to allow for stricter limits if monitoring shows WQS violations.

Enclosed with this letter is the Region 7 4B Rationale Document which summarizes EPA's approval of the PIL. EPA believes the separate elements of the PIL described in the enclosed document adequately address the pollutants of concern.

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

Sincerely,

Betty D. Berry

William A. Spratlin
Director
Water, Wetlands and Pesticides Division

Enclosure

cc: John Hoke
Missouri Department of Natural Resources

EPA Region 7 4B Rationale

Water body ID(s): MO_1145 **State:** MO
Water body Names(s): DRY AUGLAIZE
Pollutant(s): AMMONIA-NITROGEN, BOD, NFR (NON FILTERABLE RESIDUES)
HUC(s): 10290109
Basin:
Tributary(ies):
First Listing Cycle: 1998
Submittal Date: 11/1/2006 **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, for the impairments biological oxygen demand (BOD) and NFR, with cover letter, check list, final permit, biological stream assessment report, stream survey sampling report, consent decree and water quality review sheet on November 1, 2006. An email was received 11/7/2006 stating that the City of Lebanon was appealing the permit. EPA placed the review of this permit in lieu (PIL) of a Total Maximum Daily Load (TMDL) on hold until the appeal was resolved. An email was received 12/18/2007 with an attached Notice of Voluntary Dismissal for the appeal. Updated information and the current permit were submitted by email 01/04/2008.

Concern

A statement of the problem causing the impairment.

The sole source of the impairment is the bypassing of the Lebanon wastewater treatment plant (WWTP) MO-0089010. The listing was based on the City of Lebanon's history of violations for sanitary sewer overflows (SSO), particularly at manhole #1, located 100 yards upstream (south) of the WWTP. The outfall and bypassing occur in the upper reaches of the creek where there is no visible flow, except in wet weather, making the impaired section to be considered effluent dominated in most seasons.

Biological Stream Assessment Report for March 15 and September 25, 2000. Observations and findings include; the stream is 100% WWTP effluent dominated, biological ratings are partially supporting (station #1) and non-supporting (station #2) and loss of surface water (this is a losing stream).

Consent Decree (CD) between the United States, the State of Missouri and the City of Lebanon was entered on September 27, 2004. The objectives of the CD are 1) require the City of Lebanon to comply with its National Pollution Discharge Elimination System (NPDES) permit, the Clean Water Act (CWA) and Missouri Clean Water Law (MCWL); 2) to require the City of Lebanon to abide by incorporated work plans and schedules to investigate and locate sources of inflow and infiltration and implement a rehabilitation program to eliminate SSOs from the collection system.

Stream Survey Sampling Report by MDNR for August 7-9, 2000 evaluating invertebrates and

macroinvertebrates in support of the listing, was also included.

There are no other permitted facilities upstream of the WWTP, but there is one small, unregulated dairy farm (200 animal units or less). On March 19, 2003, the Missouri Department of Natural Resources (MDNR) issued a letter of approval describing acceptable procedures for the dairy to store, treat and land apply dairy wastes. Monitoring upstream of the WWTP outfall and downstream of the dairy has shown no discharges or violations from the dairy. MDNR has addressed the dairy as a possible source of stream impairment from nutrients, BOD, and total suspended solids (TSS).

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 permit was reissued on September 29, 2006 and revised on January 4, 2008.

The reissued permit sets interim weekly and monthly average limits for BOD of 15 mg/L and 10 mg/L and TSS of 20 mg/L and 15 mg/L. The reissued permit also includes interim limits for fecal coliform of 1000 cfu/100 ml daily maximum and 400 cfu/ 100 ml monthly average, ammonia daily maximums at 2.0 mg/L (May 1- October 31) and 3.0 mg/L (November 1 - April 30), and total recoverable copper and zinc daily maximums of 0.29 and 0.345 mg/L, respectively. The reissued permit sets final limits that are the same for BOD and TSS as set in the interim limits. A CD between the United States, the State of Missouri and the City of Lebanon mandates monthly reporting of all SSOs and describes the schedule of compliance (SOC) to eliminate the SSOs. The SOC includes completion of Goodwin Hollow lift station by June 4, 2008, completion of capacity relief sewers by February 1, 2010, submission of a detailed engineering report, and proceed with the design and construction of a third oxidation ditch. Final limits for total recoverable copper and zinc are reduced to 0.021 and 0.192 mg/L, respectively. Ammonia limits are increased to a daily maximum of 3.1 and 7.5 mg/L and a monthly average added 1.6 and 3.7 mg/L. These permitted limits will ensure the WQS for dissolved oxygen (DO) of 5 mg/L and the narrative standards for non-filterable residue (NFR) will be met.

Time

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

September 29, 2009, three years from when the City of Lebanon was issued the new limits by the permit, WQS should be achieved in Dry Auglaize Creek.

Schedule

A reasonable schedule for implementing the necessary pollution controls.

A permit was issued on September 29, 2006 and revised January 4, 2008. The final effluent limits are effective three years from the date of permit issuance (September 29, 2009). The permit includes a SOC for the City of Lebanon to complete construction improvements to the collection system and provide adequate capacity in the system. The CD (04-3125-CV-S-RED) requirements have enforcement authority to ensure that the City of Lebanon will have corrected the bypassing and met WQS by July 1, 2007. An enforcement letter, Addendum No. 1 to "Final Report Post-Rehabilitation and Master Plan Update" was issued December 3, 2007.

Monitoring

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

MDNR will schedule biological and water quality monitoring after completion of all construction to determine if the impairment has been eliminated. The permit includes quarterly instream monitoring up-

stream of the facility outfall and one quarter mile downstream of the facility outfall, for ammonia as nitrogen, temperature, pH and DO to verify if permit limits are being 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 Elimination System (NPDES)
EPA and MDNR Civil Action consent decree (04-3125-CV-S-RED)