



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

JUL 10 2013

Mr. Frank Piorko, Director
Division of Water Resources
Delaware Department of Natural Resources
and Environmental Control
89 Kings Highway
Dover, Delaware 19903

Dear Mr. Piorko:

The U.S. Environmental Protection Agency (EPA) has conducted a review of Delaware's 2012 Section 303(d) List and supporting documentation and information submitted as final on April 26, 2013. Based on this review, EPA has determined that Delaware's list of water quality limited segments still requiring Total Daily Maximum Loads (TMDLs) meets the requirements of Section 303(d) of the Clean Water Act, 33 U.S.C. §1313(d), and EPA's implementing regulations. Therefore, with this letter, EPA hereby approved Delaware's 2012 Section 303(d) List. The enclosed rationale for approval provides an explanation of the basis for EPA's approval.

In addition to the enclosed approval rationale, EPA has several additional comments. There are four listings in the 2012 Section 303(d) list where the "Year Listed" was modified from the 2010 Section 303(d) List. These are: DE290-001-01, year listed for PCBs should be 1996; DE 290-001-02, year listed for PCBs should be 1996; DE290-L01, year listed for PCBs should be 1996; and, DE290-L02, year listed for PCBs should be 1996. Also, the listings for DE090-002, "SoutheastCreek," and DE-090-L01, Lums Pond, indicate that the TMDL date was 2012, whereas that TMDL was not approved by EPA until 2013. EPA does not believe these errors should delay our approval, and Delaware can make corrections to future lists.

Although EPA does not approve or disapprove the schedule for TMDL development as part of its CWA Section 303(d) review, EPA notes that several TMDLs due for completion in the 2009/2010 and 2011/2012 timeframe were not completed. EPA and DNREC can discuss the status of the overdue TMDLs. Note that any agreement outside of the 303(d) list which modifies the TMDL development schedule (e.g., 106/604(b) workplan) should be reflected in the 303(d) list.

EPA appreciates the effort put forth by you and your staff to compile this list and address issues. We look forward to the submission and review of future 303(d) Lists. If you have any questions, please contact me or have your staff contact Denise Hakowski at (215) 814-5726.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon M. Capacasa", written over a horizontal line.

Jon M. Capacasa, Director
Water Protection Division

Enclosure

cc: John Schneider (DNREC)
David Wolanski (DNREC)

