



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

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DALLAS, TX 75202-2733

MAY 08 2015

Kristine Pintado
Surface Water Quality Bureau
Standards, Planning and Reporting Team
New Mexico Environment Department
Harold Runnels Building (N2056)
P.O. Box 5469
Santa Fe, NM 87502-5469

Dear Ms. ~~Pintado~~: *Kris*

I am writing in response to Brian Dail's July 21, 2014, request that EPA technically approve the Surface Water Quality Bureau's (SWQB) use attainability analysis (UAA) for the Mimbres River. I have completed my review and have outlined my findings below.

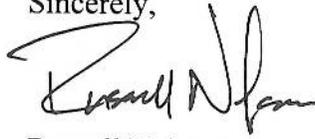
In the development of this UAA, the SWQB's approach was to consider the influences from varying ecological zones, natural and anthropogenic factors, and the effects of recent historical and more current ambient air temperature as determining factors affecting attainment of aquatic life uses in the Mimbres River. The SWQB determined that the original upper segment, 20.6.4.804 NMAC should be broken into two separate segments consistent with the variation in ecological zones. The new segment, 20.6.4.807 NMAC was described as including the upper reaches, extending down to Cooney Canyon and McKnight Canyon on the East Fork of the Mimbres. The SWQB concluded that this new segment can support a High Quality Coldwater aquatic life use (ALU). The remaining portion of the original segment 20.6.4.804 NMAC now extends from Cooney Canyon and McKnight Canyon on the East Fork down to Allie Canyon (the "Middle Mimbres"). The SWQB determined that this segment can support the original Coldwater ALU. The lower segment, 20.6.4.803 NMAC now includes the perennial reaches below Allie Canyon. The SWQ determined that given the naturally high ambient water temperature in this segment, the Coolwater ALU with a segment-specific temperature criterion of 30°C was appropriate.

The Region's technical review considered all the supporting information presented in the original discussion draft and additional information provided by Brian Dail/SWQB. Although some anthropogenic factors may be in play, the new and revised regulatory segment breaks are supported by the variation in ecological zone and associated ambient air temperatures. The revised ALU for segment 20.6.4.803 NMAC to Coolwater is supported and consistent with either 40 CFR 131.10(g)(1) or 131.10(g)(5). Based on these findings, Region 6 considers this UAA to be technically approvable. A discussion of EPA's findings can be found in the enclosed Technical Support Document.

The Region's technical approval does not constitute a final action under §303(c) of the Clean Water Act (CWA), but is an interim action utilizing previously approved performance-based provisions (*See* 65 FR 24647, 24648 ((April 27, 2000)). Since this is not a final action by EPA, it is not subject to the outcome of consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7(a)(2) of the Endangered Species Act. If the Water Quality Control Commission should revise the state's standards during the current triennial revision, or subsequently as an interim rulemaking, EPA will make a final determination under §303(c) of the CWA and consult with the USFWS at that time.

I appreciate your and the SWQB staff's efforts in the development of this UAA. If you have any questions concerning this letter please call me at (214) 665-6646.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell Nelson". The signature is fluid and cursive, with a large initial "R" and "N".

Russell Nelson
Regional Standards Coordinator

Enclosure

cc: Brian Dial
Surface Water Quality Bureau
Monitoring, Assessment & Standards Team