



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
WATER AND
WATERSHEDS

AUG 8 2013

Mr. Gregory Aldrich
Water Quality Programs Administrator
Oregon Department of Environmental Quality
DEQ Headquarters Office
811 SW 6th Avenue
Portland, OR 97204-1390

Dear Mr. Aldrich:

I am writing to inform you that the U.S. Environmental Protection Agency has completed its review of the portions of Oregon's March 2001 "Antidegradation Policy Implementation Internal Management Directive for NPDES Permits and Section 401 Water Quality Certifications" (IMD) that are not incorporated into Oregon's water quality standards, as ordered by the U.S. District Court for the District of Oregon (court) on April 10, 2013, in the case of *Northwest Environmental Advocates v. United States Environmental Protection Agency*, Case No: 3:05-cv-1876-AC (D. Ore).

The EPA's water quality standards regulation at 40 CFR 131.12(a) requires states to adopt an antidegradation policy and to identify methods for implementing that policy. Both the policy and the implementation methods must be consistent with 40 CFR 131.12. Oregon's antidegradation implementation methods are contained in its IMD.

The results of the EPA's review are explained in detail in the enclosure, entitled: *The EPA's Review of Portions of Oregon's March 2001 Antidegradation Policy Implementation Internal Management Directive for NPDES Permits and Section 401 Water Quality Certifications*. In its review, the EPA has concluded that many of the components of the IMD are consistent with 40 CFR 131.12. The EPA also has concluded that certain components of the IMD are not consistent with 40 CFR 131.12.

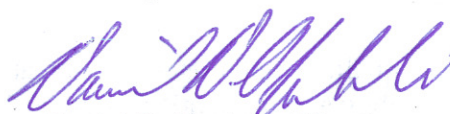
The portions of the IMD that the EPA reviewed in accordance with the court's order are not incorporated into Oregon's water quality standards (i.e., they are outside of Oregon's regulations). As explained in the preamble to the EPA's proposed antidegradation implementation methods for the State of Oregon (68 Federal Register 58775 [October 10, 2003]), antidegradation implementation "methods are not required to be contained in the State's regulation, but as they inform EPA's judgment regarding whether the State's antidegradation policy is consistent with the Federal regulations at 40 CFR 131.12, they are subject to EPA review. ... When a State or authorized Tribe chooses to develop such methods as guidance or outside of regulation, EPA reviews the methods either in connection with the State or Tribe's submission of an amendment to its antidegradation regulations under CWA section 303(c)(3) or under its discretionary authority to review existing water quality standards under CWA section 303(c)(4)."

This letter and the enclosed document constitute the EPA's conclusions resulting from the review of the portions of Oregon's IMD that are not incorporated into Oregon's water quality standards regulation. Consistent with the court's April 10, 2013 order, this letter sets forth the EPA's conclusions from its review but does not constitute a formal approval or disapproval decision pursuant to 33 U.S.C. 1313(c)(3).

Section 303(c)(4)(B) of the Clean Water Act (CWA) requires the EPA Administrator to promulgate new or revised water quality standards when s/he determines that doing so is necessary to meet CWA requirements. This letter and enclosed document do *not* constitute a determination by the EPA Administrator that new or revised water quality standards are necessary to meet CWA requirements in accordance with CWA Section 303(c)(4)(B). Rather, by this letter and enclosed document, the EPA is informing the Oregon Department of Environmental Quality (ODEQ) of the EPA's review and conclusions consistent with the court's April 10, 2013 order.

The EPA looks forward to working with the ODEQ and would like to meet in the near future to discuss the EPA's review and conclusions. Please contact me at 206-553-1855, or your staff may contact Bill Beckwith of my staff at 206-553-2495, if you have any questions.

Sincerely,



Daniel D. Opalski, Director
Office of Water and Watersheds

Enclosure