



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

**5 Post Office Sq., Suite 100
BOSTON, MA 02109-3912**

February 15, 2017

Michael Kuhns, Director
Bureau of Water Quality
Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017

Re: Maine's 2014 Clean Water Act §303(d) List

Dear Mr. Kuhns:

Thank you for Maine's submittal of the State's 2014 Clean Water Act (CWA) §303(d) list dated September 28, 2016, and received by EPA Region 1 electronically on October 4, 2016. In accordance with §303(d) of the CWA and 40 CFR §130.7, the U.S. Environmental Protection Agency (EPA) conducted a complete review of Maine's 2014 §303(d) list. Based on this review, EPA has determined that Maine's 2014 §303(d) list of water quality limited segments still requiring total maximum daily loads (TMDLs) meets the requirements of CWA §303(d) and EPA's implementing regulations, as described in the attached approval documentation. Therefore, EPA hereby approves Maine's decision to include the waters the State placed in Categories 5A, 5B, and 5D of Maine's 2014 integrated list of surface waters, as well as Maine's decision to remove specific waters from the 2014 list.

We greatly appreciate the effort by your staff on the preparation and well documented submittal of the 2014 list. As you are aware, in February 2015, EPA approved sustenance fishing as a designated use for waters in Indian lands and for any waters outside of Indian lands subject to sustenance fishing rights under the Maine Implementing Act. In decisions issued in February, March, and June 2015, EPA disapproved certain WQS for waters in Maine, including, but not limited to, waters in Indian lands. On December 19, 2016, EPA promulgated WQS to address the disapprovals, and to address the Administrator's determination that Maine's human health criteria are not adequate to protect the designated use of sustenance fishing for certain waters (81 FR 92466). The federal WQS took effect on January 18, 2017. Accordingly, Maine's future §303(d) listing decisions should take into account the sustenance fishing designated use and the federal criteria, where applicable, when determining whether a water is impaired and should be listed in Category 5. The sustenance fishing use and federal criteria are also relevant to whether waters previously placed in Categories 4A (TMDL approved) and 4B (other controls in place obviating the

need for a TMDL) should remain in that Category or should be returned to Category 5. See 40 CFR 130.7(b)(1)(iii). We would be happy to discuss this with you and your staff if you have any questions or concerns.

Maine's submittal includes a list of those waters for which technology-based and other required controls for point and nonpoint sources are not stringent enough to attain or maintain compliance with the State's Water Quality Standards. The submittal also describes a priority-setting approach and identifies those waters for which TMDLs will be completed and submitted to EPA over time. The statutory and regulatory requirements, and EPA's review of Maine's compliance with each requirement, are described in detail in the enclosed approval document.

The Maine Department of Environmental Protection (ME DEP) also successfully completed a public participation process in 2016, during which the public was given the opportunity to review and comment on the State's proposed §303(d) list. As a result of this effort, Maine has considered public comments in the development of the final list. A summary of the public comments and ME DEP's response to comments were included in the final submittal.

My staff and I look forward to continued cooperation with ME DEP in implementing the requirements under §303(d) of the CWA. Please feel free to contact me or Ralph Abele at 617-918-1629 if you have any questions or comments on our review.

Sincerely,

/s/

Lynne A. Hamjian for

Kenneth Moraff, Director
Office of Ecosystem Protection

Enclosure

Cc (electronic):

Susanne Meidel, ME DEP
Don Witherill, ME DEP
Jennie Bridge, WQB, EPA Region 1
Greg Dain, ORC, EPA Region 1
Ann Williams, ORC, EPA Region 1
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