UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF
WATER AND
WATERSHEDS

Ms. Wendy Wiles, Director
Environmental Solutions Division
Oregon Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204-1390

Re: Determination of Progress for Oregon's Nonpoint Source Management Program

Dear Ms. Wiles:

Thank you for submitting the *Oregon Nonpoint Source Pollution Program 2014 Annual Report* (June 2015) ("Annual Report"), prepared by the Oregon Department of Environmental Quality (ODEQ). Based on our review, the Environmental Protection Agency (EPA) concludes that Oregon has made satisfactory progress in implementing its nonpoint source (NPS) management program during 2014. We have enclosed the EPA's *Checklist for Determining Progress of State NPS Management Programs and Performance of CWA Section 319 Grants* to provide you with additional insight into our determination of satisfactory progress.

Background

Section 319(h)(11) of the Clean Water Act (CWA) requires States to report annually on progress under their nonpoint source (NPS) management programs. EPA must establish whether the State has made "satisfactory progress" each year in implementing its NPS management program using the EPA's *Checklist for Determining Progress of State NPS Management Programs.* The annual report is a primary means by which the EPA both makes this determination and evaluates performance under the Section 319 grants.

Highlights

- ODEQ, Oregon Department of Fish and Wildlife, Oregon Department of Forestry (ODF), and federal agencies assembled the scientific case for protecting natural thermal regimes, analyzed effects of landscape disturbance on thermal regimes, and presented this information to the Oregon Board of Forestry and Oregon Environmental Quality Commission. The Board of Forestry subsequently affirmed the need to continue the rule analysis for increased protections on fish-bearing streams and directed ODF to begin the process of constructing new rules.
- Nearly completed Water Quality Status/Action Plans for Clackamas and Sandy River Basin and beginning work on plans for the following: Umatilla Basin, Tualatin Subbasin, and Upper Willamette Area.

- Continued to develop the Deschutes, Coquille and Mid-Coast basin TMDLs. Continued working on TMDL implementation and implementation plan development in the Willamette, Rogue, Umpqua, Klamath, Tillamook, North Coast and other basins with issued TMDLs.
- Completed implementation plan reviews for submitted TMDL implementation plans for the John Day, Wallowa (Imnaha, Lower Grand Ronde) and Malheur basins.
- Completed drafts and the public participation process for its NPS plan update (that EPA approved during 2015).
- Worked collaboratively with the Oregon Department of Agriculture, ODF, and other Designated Management Agencies to address nonpoint source issues associated with agriculture, forest, or urban land uses.

Recommendations

- Because Oregon has decided to use the 319 NPS workplan commitments to reflect more measurable milestones and these commitments are reflected in Oregon's Performance Partnership Agreement, Oregon should continue to include the table *Performance Partnership Agreement NPS Pollution Control Commitments* in its annual NPS progress report and add a column that addresses the status of each commitment. Oregon's annual commitments through its workplan should be measurable, such as number of WQ10 stories.
- Documenting water quality progress as a result of restoration (through measures such as WQ10) is a key priority of the national NPS program. Oregon stopped using its Laboratory Analytical Storage and Retrieval (LASAR) database on December 1, 2012. According to ODEQ staff, having a repository for data such as LASAR is key to Oregon addressing the requirements of these measures. EPA encourages ODEQ to move as quickly as possible to set up a new database and enter and analyze all appropriate data into that system so Oregon can generate success stories showing improved water quality due to restoration.
- States must use at least 50% of the annual appropriation of § 319 funds (watershed project funds) to implement watershed projects guided by watershed based plans. Usually this plan implementation is conducted by entities funded by ODEQ through its 319 grant program. During 2014, ODEQ directed 36% of its 319 funds towards grants to conduct these projects. According to Dave Croxton, EPA, Gene Foster, ODEQ told him that ODEQ plans to include FTE in the calculation of the amount of funding used to implement watershed based plans. In the future, please include this information either in an email or as part of the annual report. Alternatively, ODEQ may request an interim waiver from the 50% requirement. Justifications should explain how the waiver would result in:
  - improving Oregon's ability to deliver environmental results;
  - reducing impacts on Oregon's FTE, given the planning for that Oregon has already done to date; and/or
  - reducing Oregon's need to renege on commitments it has made to partners or stakeholders.
- Oregon should consider revising the format of its annual NPS reports to be more concise. The current format includes far more information that is needed for EPA's purposes. EPA would be happy to meet with ODEQ to discuss refinements on this report.

The EPA will continue to work in partnership with Oregon to address nonpoint source water

quality issues, including program activities and projects supported directly through EPA Section 319 funding. Please feel free to contact Alan Henning, our Oregon 319 Nonpoint Source Coordinator at (541) 687-7360 if you have any questions regarding our review.

Sincerely,

Daniel Opalski, Director
Office of Water and Watersheds

Enclosure: Checklist for Determining Progress of State NPS Management Programs and Performance of CWA Section 319 Grants

cc: Mr. Eugene Foster, Watershed Management Section Manager, ODEQ (via email)
Mr. Don Yon, Watershed Management Section, ODEQ (via email)
Mr. Ivan Camacho, 319 Grant Coordinator, ODEQ (via email)