From:	Shields, Amy
To:	TMDLcomment@dnr.iowa.gov
Cc:	Paxson, Chelsea; Kissel, Jennifer
Subject:	Intent to withdraw Cedar River watershed nitrate TMDL
Date:	Friday, November 4, 2022 3:33:03 PM

Re: Intent to withdraw Cedar River watershed nitrate TMDL

As noted in the 2022 Nutrient Reduction Memorandum, nutrients are the most widespread stressor impacting water bodies. Adopting Water Quality Standards, assessing for impaired waters, and writing and implementing Total Maximum Daily Loads to address excess nutrients is crucial in lakes and reservoirs and in rivers and streams. By including all water bodies, Iowa Department of Natural Resources can more effectively address excess nutrients that can contribute to harmful algal blooms, areas of low oxygen, and high levels of nitrates that contaminate waters used for recreation, drinking water, wildlife, pets and livestock, and aquatic life.

We appreciate that Iowa DNR provided notice to the public of its withdrawal of the Cedar River TMDL for nitrate. The Environmental Protection Agency will be reviewing the public's comments, Iowa DNR's responses, and the proposed TMDL withdrawal in the context of the underlying requirements of the Clean Water Act. TMDLs should not be withdrawn simply because a waterbody is no longer impaired. If the Cedar River becomes impaired for nitrate and a new TMDL is submitted to the EPA for review, the EPA will either approve or disapprove the TMDL pursuant to CWA Section 303(d). The EPA-approved bacteria TMDL for Cedar River is not part of this withdrawal and still applies. Implementation efforts to reduce nutrients and bacteria should continue in the watershed.

This year, as noted in the EPA's 2022 Nutrient Reduction Memorandum, the EPA plans to accelerate reduction of nutrient pollution in our nation's waters. One way that the EPA intends to do this is by encouraging states and authorized tribes to adopt numeric nutrient criteria into their WQS. To achieve implementation of numeric criteria and targets, the EPA will support targeted water quality monitoring and scientifically robust assessment methods to identify nutrient-related impairments. For waters with nutrient-related impairments, the EPA will assist states to develop ready-for-implementation TMDLs to ensure the protection and restoration of waters.

In 2019, the EPA Region 7 Water Director, Jeff Robichaud, sent a Memorandum to the states regarding Surface Water Nutrient Criteria. He encouraged states to develop their own scientifically based numeric nutrient criteria and highlighted the final document on Nutrient Reference Condition Identification and Ambient Water Quality Benchmark Development Process for Rivers and Streams within Region 7. In 2021, the EPA also published Ambient Water Quality Criteria to Address Nutrient Pollution in Lakes and Reservoirs, which recommends stressor-response based criteria to address nutrient pollution. The EPA Office of Water expects that states and authorized tribes will either adopt numeric nutrient criteria into their WQS or commit to use numeric targets to implement applicable narrative criteria.

Please be advised, all NPDES permits in the watershed should ensure that an appropriate water quality based effluent limitation is included for total nitrogen and total phosphorus limits consistent with 40 CFR 122.44(d). If the TMDL is withdrawn, the wasteload allocations for the Cedar River TMDL for nitrate would no longer be 'available' for purposes of 40 CFR 122.44(d)(l)(vii)(B). However, antibacksliding regulations prohibit the renewal, reissuance, or

modification of existing NPDES permits that contain effluent limitations, permit conditions, or standards less stringent than those established in the previous NPDES permit. The antibacksliding 'safety clause' protects against relaxation of effluent limitations subject to the exceptions in CWA sections 402(o)(2) and 303(d)(4). As part of the NPDES permitting process, the EPA may review major or minor NPDES permits in this watershed, including changes to permit limits. As the 2022 memo states, the EPA will ensure that both EPA and state-issued permits: analyze whether nutrients have a reasonable potential to cause or contribute to a WQS exceedance in all permits; incorporate technically sound nutrient limits when necessary; and include permit limits that reflect the loads contained in the approved TMDLs.

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