

Congress of the United States
House of Representatives
Washington, DC 20515

March 22, 2021

Mr. Edward H. Chu
Acting Regional Administrator
U.S. Environmental Protection Agency Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

Dear Acting Regional Administrator Edward H. Chu –

Thank you for your efforts in protecting the environmental interests for communities in the State of Missouri. We appreciate the opportunity to comment on the Environmental Protection Agency's (EPA) proposed addition of 40 lakes to Missouri's 2020 List of Impaired Waters under Clean Water Act (CWA) Section 303(d) and are grateful the EPA extended the public comment period an additional 45 days.

We request that EPA reconsider its listing recommendation on some of the lakes in Missouri where incomplete and inconsistent data was utilized. The Missouri Department of Natural Resources (DNR) and Missouri Clean Water Commission (Commission) are committed to working with the EPA to ensure the EPA and public have the most relevant data available. However, more time is needed to gather new data and evaluate existing data before prematurely listing some of the lakes.

On April 2, 2020, the Missouri Clean Water Commission (Commission) approved Missouri's 2020 303(d) List, which contained 46 lakes that do not meet Missouri's new numeric-nutrient criteria for chlorophyll-a. In proposing these lakes to the Commission for listing, the Missouri Department of Natural Resources relied upon the Listing Methodology Document (LMD) approved by the Missouri Clean Water Commission, the Missouri Nutrient Criteria Implementation Plan (NCIP) approved by EPA, and the data available within the review timeframe the Department established in order to meet EPA's requirements for submittal of the list.

There are several concerns surrounding the EPA's decision to list the lakes we would like to bring to your attention.

1. **The EPA's listing of the Lake of the Ozarks relies on unverified data.** We request the EPA re-assign the Lake of the Ozarks to Category 3B since the EPA's proposing listing was based on insufficient fish-kill data that was not verified by the Department of Natural Resources or the Missouri Department of Conservation (MDC).

2. **Some of the EPA's proposed listings are based on data that have a low probability of being representative of current conditions; listing decisions for these lakes should be varied to allow additional data collection.** Older data may not represent the current water quality of individual lakes since they can vary widely. We request the EPA categorize waters lacking recent water quality data as category 2B or 3B to avoid any consequences resulting from errors associated with old data.


3. **Some data EPA used to justify some additional lake classifications was not available to DNR at the time of DNR's assessment.** This included data published not only after DNR completed its assessments, but also after public notice and the Missouri Clean Water Commission's approval the 2020 303(d) List on April 2, 2020. In summation, all data published after the approved and legal listing processed followed by DNR for the 2020 303(d) List should be excluded from EPA's decision. All data in question will be incorporated into DNR's next regularly scheduled assessment.

4. **EPA notes multiple points of impairment, inconsistent with their own criteria.** EPA's criteria specifies that the point of compliance when it pertains to sampling certain lakes is intended to be near the dam or outflow of the lake. However, EPA cited multiple sample points that were not near dams or outflows, in contrast to their own criteria. Therefore, DNR is requesting that the numeric criteria should not be applied to any other sample point when determining whether to list these additional lakes to the 2020 303(d) List.

5. **The assessment of Lake of the Ozarks is complex and needs additional review.** We request the EPA categorize Lake of the Ozarks as 3B to allow the Department to analyze new information that would facilitate additional refinement of the LMD and determine the appropriate water-quality endpoint for the lake or portions of the lake. Additionally, the Missouri Department of Natural Resources is currently reevaluating the assignment of the Lake of the Ozarks to the Ozark Highlands Ecoregion and conducting additional analysis of regarding the nutrient loading in that water body. Lake of the Ozarks is most appropriately categorized as 3B while these evaluations take place.

The listing of these additional water bodies should not be taken lightly and necessitates thorough and analytical consideration as it would have significant impacts on families, landowners, small businesses, and the State and region's economy. We appreciate the EPA working with our state agencies and stakeholders to ensure our bodies of water are in compliance with the 303(d) listing process with the most relevant data available. We appreciate your careful consideration of our recommendations as you finalize your approval of Missouri's 303(d) list.

Sincerely,


Blaine Luetkemeyer
Member of Congress

Roy Blunt
United States Senator

Jason Smith
Member of Congress

Billy Long
Member of Congress


Vicky Hartzler
Member of Congress

Josh Hawley
United States Senator

Ann Wagner
Member of Congress

Sam Graves
Member of Congress