



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER

61 FORSYTH STREET

ATLANTA, GEORGIA 30303-2920

DATE: June 19, 2002

TO: Savannah River TMDL Public Hearing Attendees and Commenters

SUBJECT: Notice of Withdrawal of TMDL

This notice is to inform you of the withdrawal of the TMDL for total mercury in fish tissue residue that EPA had established for the middle and lower Savannah River watershed, from Clarks Hill Lake Dam to the Tide Gate, located in the Savannah River Basin, Georgia. EPA is withdrawing this TMDL because according to Georgia's applicable water quality standards the Savannah River is not, and was not at the time EPA established this TMDL, impaired by total mercury and is not on Georgia's current CWA section 303(d) list for mercury.

BACKGROUND

EPA established this TMDL under CWA section 303(d)(2) on February 28, 2001, to satisfy a consent decree obligation in the case Sierra Club v. EPA, 1:94-CV-2501-MHS (N.D. Ga.). EPA established the TMDL for five contiguous segments of the Savannah River, from the Clarks Hill Lake Dam to the Tide Gate, which had been listed on the State of Georgia's 2000 Section 303(d) list of impaired waters because mercury levels in certain species of fish tissue exceeds the Georgia Department of Natural Resources (GDNR) Fish Consumption Guidelines.

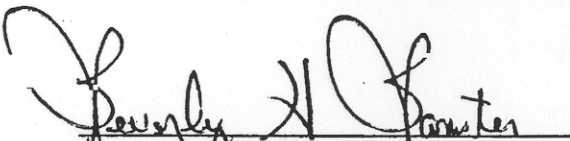
Since the State of Georgia does not have a numeric water quality criterion for the protection of public health from total mercury, EPA derived a numeric interpretation of the State of Georgia's narrative water quality criterion for toxic substances using EPA's Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health (EPA 2000). EPA employed that interpretation as the basis for establishing the Savannah River TMDL for total mercury. (For reasons set forth in the administrative record for the Savannah River TMDL, EPA did not consider the state Fish Consumption Guidelines to be an appropriate basis for interpreting the state's narrative water quality criterion for purposes of TMDL development.) On January 8, 2001, EPA published a recommended methylmercury water quality criterion for the protection of human health. 66 Fed. Reg. 1344 (Jan. 8, 2001). EPA lacked data to consider the effects of this recommended criteria on the Savannah River TMDL, which EPA was required to issue by February 28, 2001.

On July 30, 2001, after EPA established the Savannah River TMDL, the Georgia Environmental Protection Division (Georgia EPD) informed EPA that until the State adopts a numeric water quality criterion for mercury for protection of human health, Georgia EPD will

interpret the narrative criterion of "no toxics in toxic amounts" consistently with EPA's 2001 revised criterion recommendation. In developing its 2002 CWA section 303(d) list, Georgia EPD considered all data and information available for the affected segments of the Savannah River, including data and information developed by EPA for the mercury TMDL. Based on its July 2001 interpretation of its narrative water quality criterion "no toxics in toxic amounts," Georgia EPD concluded that the applicable water quality standard for the Savannah River is not, and was not at the time EPA established this TMDL, exceeded for total mercury as measured by mercury levels in fish tissue residue. Accordingly, Georgia EPD did not include the Savannah River on the 2002 CWA section 303(d) list it submitted to EPA on March 27, 2002 (with respect to mercury). EPA examined the mercury fish tissue data and information supplied by Georgia as part of its 2002 CWA section 303(d) list submission, and agreed with Georgia EPD's conclusion that the applicable water quality standard for the Savannah River was not impaired for total mercury as measured by mercury levels in fish tissue. Therefore, EPA approved Georgia EPD's decision to exclude the Savannah River (for mercury) from its 2002 CWA section 303(d) list on April 30, 2002.

Georgia has no present obligation under the Clean Water Act to submit to EPA a TMDL for total mercury for the Savannah River. Nor does the Clean Water Act require EPA to maintain this TMDL when the TMDL was based on an incorrect factual predicate, i.e., that the applicable water quality criteria for mercury was exceeded. Therefore, in the exercise of its discretion, EPA is withdrawing the Savannah River TMDL established in February 2001 for total mercury.

DATE 6/19/02


BEVERLY H. BANISTER, Director
Water Management Division