



southern
utah
wilderness
alliance

Via Electronic Mail (jamesharris@utah.gov)

August 1, 2014

James Harris
Utah Department of Environmental Quality
Division of Water Quality
P.O. Box 144870
Salt Lake City, Utah 84114-4870

Re: Supplemental Comments on Draft 2012-2014 Integrated Report

Dear Mr. Harris:

The Southern Utah Wilderness Alliance (SUWA) is pleased to submit the following supplemental comments on the Utah Department of Environmental Quality, Division of Water Quality (DWQ), draft 2012-2014 Integrated Report (IR).

Introduction

DWQ monitors streams, rivers, and lakes throughout Utah to determine whether water quality standards and designated beneficial-use(s) are achieved and supported, respectively. The following rules generally apply for evaluations of conventional chemical parameters to determine support of applicable uses:

Beneficial Use Supported- For each parameter, if ≥ 10 samples are available for a monitoring location within the most recent 5-years, then the [Assessment Unit] is considered to be supporting its designated use(s) if $< 10\%$ of the samples exceed the numeric criterion.

Beneficial Not Supported- For each parameter, if ≥ 10 samples are available for a monitoring location within the most recent 5-years, then the site is considered to be impaired—not supporting its designated uses—if $\geq 10\%$ of the samples exceed the numeric criterion.

In circumstances where insufficient observations exist in the 5 year dataset to make a determination, 10 years of data is evaluated following the same assessment rule.¹

¹ IR, Chapter 2 at 21.

For toxic parameters DWQ uses a “more conservative” approach wherein “sample size requirements are smaller, sites are considered degraded [*i.e.*, impaired] with >1 criterion violation.”² The waters (and respective impairments) discussed herein meet the “more than ten percent” requirement or the more conservative requirement but were not listed in the IR.

Incomplete and Insufficient Data

SUWA is concerned that DWQ did not sufficiently pursue all reasonably available sources of data in compiling the IR.

The IR does not incorporate or use reasonably available information and data collected by the National Park Service (NPS) for waters in or near national parks and national monuments in Utah, including Arches, Bryce Canyon, Canyonlands, Capitol Reef, and Zion National Parks and Hovenweep and Natural Bridges National Monuments.³ This information was collected between October 1, 2009 and September 30, 2012.⁴ In fact, DWQ staff helped collect, analyze or otherwise compile some of the information.⁵ However, much (if not all) of the information collected by NPS is not reflected in the IR. The following is a non-exhaustive list of information/data not incorporated into the IR by DWQ.

Arches National Park

The NPS conducted 2,882 designated beneficial-use evaluations for water quality results at nine sites in or near Arches National Park between October 1, 2009 and September 30, 2012.⁶ Six of the monitored sites recorded exceedances of respective water quality standards.⁷ This information was not incorporated into the IR. For example, Salt Wash reported exceedances for dissolved aluminum, dissolved oxygen, total phosphorus⁸, and total dissolved solids (TDS).⁹

² *Id.* at 23.

³ *See generally* NPS, Water Quality in the Northern Colorado Plateau Network, Water Years 2010-2012 (December 2013) (Water Quality Report) (attached).

⁴ *Id.* at ix.

⁵ *Id.* (NPS worked in partnership with DWQ); *id.* at xiii (stating that DWQ personnel provided Utah laboratory data management and consultation).

⁶ *Id.* at 9.

⁷ *Id.* at 10 (map depicting location of exceedances)

⁸ Utah does not have a water quality standard for total phosphorus. However, it has been explained that

the value of 0.05 mg/L is used as an indication of impairment meant to be considered with other parameters, such as dissolved oxygen. If low dissolved oxygen concentrations were observed commensurate with elevated total phosphorus concentrations (above 0.05 mg/L), the collective result might then indicate impairment due to eutrophication. Corroborating evidence may include other chemical parameters associated with eutrophication – such as elevated

However, the IR lists Salt Wash as impaired for TDS only.¹⁰ The IR must list all impaired waters and for all impairments, not just TDS.¹¹

Courthouse Wash is another example. The segment above the confluence with the Colorado River reported exceedances for total phosphorus while the segment referred to as “Upper Courthouse Wash” reported exceedances for dissolved arsenic, dissolved oxygen, *E. coli*, total phosphorus and temperature.¹² The IR lists dissolved oxygen and arsenic only.¹³

Bryce Canyon National Park

The NPS conducted 1,122 designated beneficial-use evaluations for water quality results at four sites in Bryce Canyon National Park between October 1, 2009 and September 30, 2012.¹⁴ This information was not incorporated into the IR. Sheep Creek, a tributary to the Paria River, reported exceedances for total phosphorus but this is not reflected in the IR.¹⁵ Similarly, Yellow Creek is not listed in the IR.¹⁶

Canyonlands National Park

The NPS conducted 5,678 designated beneficial-use evaluations for water quality results at fifteen sites in or near Canyonlands National Park between October 1, 2009 and September 30, 2012.¹⁷ This information was not incorporated into the IR. For example, the Colorado River

nutrient concentrations or low dissolved oxygen concentration – and bioassessments.

Water Quality Report at 6-7.

⁹ *Id.* at 11.

¹⁰ *See* IR, Chapter 5 at 12 (assessment unit ID UT14030005-007).

¹¹ On July 11, 2014, the NPS submitted comments to DWQ regarding the draft IR, stating that various waters including Salt Wash should not be listed as impaired because “[i]n all cases, the extent of perennial surface water is less than one mile in length, and surface water often is stagnant for much of the year.” NPS, Letter from Kate Cannon, Superintendent, to James Harris, DWQ Water Quality Monitoring Section Manager 1 (July 11, 2014) (attached). This conclusion is unsupported by law. Utah law protects “*all . . . accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state.*” Utah Code § 19-5-102(23)(a) (emphasis added); *see also* Utah Admin. Code R317-2-6. As NPS stated in another context, “[p]erennial waters . . . support year-round ecological process and function and have established criteria that allow monitoring for [Clean Water Act] compliance.” Water Quality Report at 5.

¹² Water Quality Report at 11.

¹³ IR, Chapter 5 at 14.

¹⁴ Water Quality Report at 20.

¹⁵ *Compare* Water Quality Report at 22, *with* IR, Chapter 5 at 30 (Sheep Creek at Skutumpah road crossing impaired for chromium, temperature, and TDS only).

¹⁶ *Compare* Water Quality Report at 22, *with* IR, Chapter 5 (Yellow Creek not listed).

¹⁷ Water Quality Report at 23.

above its confluence with the Green River (referred to in the IR as “Colorado River-3”) reported impairments for total phosphorus, dissolved selenium, and temperature.¹⁸ However, selenium is the only impairment of these three listed in the IR.¹⁹ Moreover, the Colorado River below “Big Drop #3 Rapids” (referred to in the IR as “Colorado River-2”) reported exceedances for total phosphorus and temperature but is listed in the IR for aluminum only.²⁰ Finally, Salt Creek, in southeastern Canyonlands near Peekaboo Spring and Crescent Arch, reported exceedances for temperature and dissolved oxygen, dissolved mercury, and total phosphorus, respectively.²¹ The IR lists cadmium and selenium as the only impairments.²²

Capitol Reef National Park

The NPS conducted 1,570 designated beneficial-use evaluations for water quality results at six sites in or near Capitol Reef National Park between October 1, 2009 and September 30, 2012.²³ This information was not incorporated into the IR. Oak Creek reported exceedances for pH and total phosphorus and separate segments of Sulphur Creek reported exceedances for *E. coli*, total phosphorus, temperature, and TDS, respectively.²⁴ The IR does not list all of these impairments.²⁵

Zion National Park

The NPS conducted 1,865 designated beneficial-use evaluations for water quality results at five sites in or near Zion National Park between October 1, 2009 and September 30, 2012.²⁶ This information was not incorporated into the IR. According to NPS, La Verkin Creek at Lee Pass Trail reported exceedances of relevant water quality standards but the IR lists this water segment as “Supporting.”²⁷

Hovenweep National Monument

The NPS conducted 853 designated beneficial-use evaluations for water quality results at three sites in Hovenweep National Monument between October 1, 2009 and September 30, 2012.²⁸ This information was not incorporated into the IR. Cajon Spring and Square Tower Spring are not listed in the IR despite reported exceedances.²⁹

¹⁸ *Id.* at 25.

¹⁹ IR, Chapter 5 at 11.

²⁰ *Compare* Water Quality Report at 25, *with* IR, Chapter 5 at 15.

²¹ *See* Water Quality Report at 25.

²² *See* IR, Chapter 5 at 14.

²³ *See* Water Quality Report at 29.

²⁴ *Id.* at 31.

²⁵ *See* IR, Chapter 5 at 27 (segments of Sulphur Creek monitored for “Fremont River-3”).

²⁶ *See* Water Quality Report at 55.

²⁷ *Compare id.* at 57 (impaired for total phosphorus), *with* IR, Chapter 5, at 157 (supporting).

²⁸ *See* Water Quality Report at 45.

²⁹ *See id.* at 47.

Natural Bridges National Monument

The NPS conducted 624 designated beneficial-use evaluations for water quality results at three sites in Natural Bridges National Monument between October 1, 2009 and September 30, 2011.³⁰ This information was not incorporated into the IR. Armstrong Canyon Creek reported exceedances for dissolved aluminum, dissolved oxygen, dissolved mercury, and total phosphorus but is listed on the IR for dissolved oxygen only.³¹ Moreover, Owachomo Bridge Spring and Sipapu Bridge Spring do not appear on the IR despite recorded exceedances.³²

It is arbitrary and capricious for DWQ to ignore the water quality information/data in the Water Quality Report, especially when DWQ helped compile, analyze, or otherwise interpret much of it. This information must be incorporated into the IR. Federal regulations require DWQ to examine all existing and readily available data when making assessment decisions, which includes consideration of data collected by DWQ and others such as NPS.³³

Thank you for your attention to these comments. We would appreciate the opportunity to meet with you and your staff to discuss these issues and those raised in SUWA's initial letter.

Sincerely

/s/

Landon Newell
Staff Attorney

Cc: Stephen Bloch, SUWA Legal Director

³⁰ Water Quality Report at 49.

³¹ *Compare id.* at 51, with IR, Chapter 5 at 15 (monitored as part of White Canyon (assessment unit ID UT14070001-004)).

³² *See* Water Quality Report at 51.

³³ *See* 40 C.F.R. § 130.7(b)(5).