For Immediate Release

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Arizona Department of Environmental Quality's proposal fails to protect the Upper Queen Creek Watershed

TUCSON, Ariz. — On Monday, October 26th, the Arizona Mining Reform Coalition and several other environmental organizations submitted public comments to the Arizona Department of Environmental Quality (ADEQ), arguing that the department did not meet its mandate to protect Arizona water in a recently-published draft total maximum daily load (TMDL) for the Upper Queen Creek Watershed. This draft TMDL represents the department's latest failure in a nearly 25-year effort to address pollution in Queen Creek. It also raises serious technical and legal questions as drafted and if approved by the Environmental Protection Agency (EPA). This is another example of the department's prioritization of multi-national mining interests to the detriment of Arizonans.

What is TMDL?

The Clean Water Act requires states to identify all polluted waters within their boundaries, and then develop total maximum daily loads (TMDLs) for those impairments. The purpose of a TMDL is to determine the total amount of pollutants impairing a water body from all sources, then calculate the necessary reductions of that pollutant by each source to bring the water body back into compliance with water quality standards. Once a TMDL is completed, a TMDL Implementation Plan is required under Arizona law.

Why is ADEQ's draft TMDL for the Upper Queen Creek Watershed fatally flawed?

The draft TMDL fails to comply with the Clean Water Act and applicable laws, meaning ADEQ's recommended approach is scientifically dubious and does not set any mandatory steps to reduce pollution in Queen Creek as is required. In addition, the public comments submitted by the environmental organizations revealed several fatal flaws in the methodologies used by ADEQ in preparing the TMDL, as well as material inaccuracies in ADEQ's analysis and the conclusions reached. At the same time, ADEQ continues to permit the Resolution Copper Mine to discharge millions of gallons of mine wastewater per day into Queen Creek containing quantities of copper and lead.

Curt Shannon, Interim Director of the Arizona Mining Reform Coalition, commented: "The main problem with the draft TMDL written by ADEQ is that it does not result in a less impaired Queen Creek. ADEQ considers virtually all of the copper and lead contamination in the creek as natural background pollution, which they have no obligation to remedy. The Resolution Copper (RCM) point source discharges into the creek, which are allowed under an AZPDES permit, are not even factored into the model they chose to use. Additionally, the many closed mines (which are also point sources) are all treated as natural background (non-point sources) which ADEQ has no obligation to do anything about. ADEQ is treating the Resolution Copper discharges, which are by far the largest potential future point source of pollution into Queen Creek, completely independently of the TMDL—which is incorrect. ADEQ is correct that RCM has not discharged into Queen Creek for ten years, but they have a permit to do so, and that should have been looked at in the modeling. It is very likely that when RCM does discharge into Queen Creek, the amount of copper will be so vast that Queen Creek would be impaired just from that discharge alone."

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Why has it taken so long for ADEQ to address water pollution in Queen Creek?

ADEQ has documented that the water segments of Queen Creek contain excessive dissolved copper since 2002 and lead since 2010. Despite this, the department has not completed a TMDL on these impairments to date. While a draft TMDL was released in 2017, it was abruptly suspended with only a limited explanation.

In 2023, the Arizona Mining Reform Coalition and four other plaintiffs filed a lawsuit in federal court due to ADEQ's multi-decade prolonged failure to complete a TMDL, a schedule, and credible plan for producing a TMDL on these impairments to Queen Creek waters. ADEQ's current draft TMDL was prompted following this lawsuit.

ADEQ has struggled for many years to reconcile the differences between naturally occurring background sources of copper and the hundreds of old mining operations across the basin. Based on the current draft TMDL, it also is evident that ADEQ has yet to fully address how the loading from these naturally occurring and historic mine sources can be reconciled with the potential for discharges from existing Resolution Copper Mine (RCM).

What happens next?

The environmental organizations demanded ADEQ rescind the draft TMDL and correct the critical problems highlighted in a way that complies with the law, protects the environment and public health, and reduces pollution in the waters of Queen Creek. These issues must be corrected before the draft TMDL is finalized.

For additional detailed information, please contact:

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