

**Comment Response Document
Regarding the Water Quality Analysis of Eutrophication for the
Tidal Bird River in Baltimore County, Maryland**

Introduction

The Maryland Department of the Environment (MDE) has conducted a public review of the proposed Water Quality Analysis (WQA) of eutrophication for the tidal Bird River. The public comment period was open from March 3, 2005 through April 1, 2005. MDE received one set of comments during the comment period.

Below is a list of commentors, their affiliation, the date comments were submitted, and the numbered references to the comments submitted. In the pages that follow, comments are summarized and listed with MDE's response.

List of Commentors

Author	Affiliation	Date	Comment Number
Jennifer Murphy (Staff Attorney) and Robert Albanese (Intern)	Mid-Atlantic Environmental Law Center	April 1, 2005	1 through 5
Sherry Krest*	U.S. Fish and Wildlife Service	March 29, 2005 (postmarked April 8, 2005)	---

* These comments were not postmarked prior to the close of the comment period; therefore they were not considered.

1. The commentors stated that MDE's use of data that was collected no later than August 30, 2000 does not address the current dissolved oxygen (DO) levels in the Tidal Bird River and further questioned why MDE believes that water quality pertaining to DO in the Tidal Bird River has remained the same since August 30, 2000.

Response: MDE develops Total Maximum Daily Loads (TMDLs) and WQAs based on available data. MDE conducted field monitoring during 1999-2000 period to address the tidal Bird River watershed. Additionally, MDE solicited data from stakeholders in December 2004. Other available resources (i.e., the U.S. Geological Survey and Chesapeake Bay Program data) were also investigated to determine if there were other available stations in the Bird River watershed. No data later than year 2000 from other sources were found in this region. Barring any contradictory future data, this WQA provides sufficient justification to revise Maryland's 303(d) list to remove nutrients as an impairing substance in relation to Bird River. Further, the commentor has provided no data to indicate that it has gotten worse, and given extensive efforts to reduce nutrient loads and improve DO levels, MDE has reason to believe it will continue to improve.

2. The commentors noted that the DO data collected between March 7th and August 30th was used to establish that the DO WQS is being met “at any time”. The commentors stated that the phrase “at any time” can arguably be interpreted to mean that the WQS must be met at all times during the year. The commentors concluded that MDE’s lack of data between August 30th and March 7th does not support the MDE’s assumption that the DO WQS is being attained “at any time”.

Response: As provided in the tabular water quality data in Appendix A of the WQA document, MDE used data from October 1999 - August 2000 to establish this WQA, which covers both the high-flow and the low-flow conditions/seasonal variations.

3. The commentors recommended that the MDE delay the removal of the Tidal Bird River from the MDE Category 5 Integrated 303(d) list until such a time that adequate data (i.e., a minimum of 24 months of consecutive data collection) has been collected to establish that current DO levels in Tidal Bird River are being attained “at any time”.

Response: MDE develops TMDLs or WQAs for listed waterbodies based on available data collected by MDE for analysis purposes (covering high flow and low flow conditions), as well as any supplemental data from other agencies or any other sources. Based on available data, the analysis shows no evidence of DO violation or elevated chlorophyll levels. Barring any contradictory future data, this information provides sufficient justification to revise Maryland’s 303(d) list to remove nutrients as an impairing substance in relation to Bird River. However, if any contradictory data exist in the future indicating violation of water quality standards, the 303(d) listings can be revised.

4. The commentors stated that MDE’s use of data that was collected no later than August 30, 2000 does not address the current Chlorophyll *a* levels in the Tidal Bird River and further questioned MDE believes that water quality pertaining to Chlorophyll *a* in the Tidal Bird River has remained the same since August 30, 2000.

Response: Please refer to the response to Comment 1.

5. The commentors recommended that the MDE delay the removal of the Tidal Bird River from the MDE Category 5 Integrated 303(d) list until such a time that adequate data (i.e., 24 months of consecutive data collection) has been collected to establish that current Chlorophyll *a* levels in Tidal Bird River are being attained below the water quality threshold (“WQT”) of 50 micrograms/liter.

Response: Please refer to the response to Comment 3.