Comment Response Document
Regarding the Total Maximum Daily Loads of Iron and Aluminum for the Upper North Branch Potomac River Watershed, Garrett County, Maryland

The Maryland Department of the Environment (MDE) has conducted a public review of the proposed Total Maximum Daily Loads (TMDLs) of iron and aluminum for the Upper North Branch Potomac River Watershed, Garrett County, Maryland. The public comment period was open from August 13, 2009 through September 11, 2009. MDE received one set of written comments.

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.

Author	Affiliation	Date	Comment Number
James C. Ashby	Mettiki Coal, LLC	September 8, 2009	1-3

Comments and Responses:

1. The commentor questions the use of EPA's aquatic life non-priority pollutant criteria for Iron and Aluminum and the use of West Virginia's chronic criteria for dissolved aluminum as the basis of the TMDL. The commentor states that Maryland should promulgate their own water quality standards and allow the regulatory process to dictate state appropriate standards. The commentor cites the draft TMDL document: "The current West Virginia criterion for Al, as refined in 2007, is now consistent with the EPA criterion applied in this TMDL." It is the commentor's understanding that the current West Virginia criterion for Aluminum as defined in 47 CSR 2 is 0.750 mg/L (or higher if a site specific translator study is performed.) It is also the commentor's understanding that a change to COMAR 26.08.02.03-2 as it relates to aluminum is ongoing. The commentor poses the following question: If the final promulgated aluminum numeric standard turns out to be above the draft TMDL criteria value of 0.087 mg/l or ends up being hardness based, how will this be resolved in the TMDL?

   Response: The current West Virginia chronic criterion for Aluminum is 0.087 mg/L for Category B2 trout water streams, which is applicable for the Maryland Designated Use III-P streams (non-tidal cold water) in Laurel Run and Three Forks Run for which Aluminum TMDLs have been developed. MDE is delaying final promulgation on its proposed Aluminum criterion to allow further review on the appropriateness of the criterion in all waters of the State.

2. The commentor feels that a fair allocation process requires loading reductions proportional to existing loading contributions, and indicates that the draft TMDL appropriately implements this concept. The commentor also feels it is important to continue to determine the magnitude of all nonpoint source, abandoned mine site

discharge pollutant loadings in the watershed through continued sampling of nonpoint sources in the future.

Response: MDE is in agreement that the TMDL has appropriately allocated load reductions to nonpoint and point sources in the TMDL watershed. Under the TMDL process once a TMDL has been approved it is required that the watershed be revisited after five years to determine the level of progress that has been made towards achieving the TMDL goal. This would require MDE to conduct water quality surveys would to demonstrate whether improvements to water quality have been made. In doing so the current impact of nonpoint sources would be characterized.

3. The commentor applauds MDE for including future growth allocations, and states that all watersheds should have loadings set aside for future growth. While significant reductions in pollution loading could be made through remining, some room for future growth must be set aside in order for potential remining permits to be issued. The commentor concludes by stating that today's coal industry is not the problem (abandoned and unclaimed pre-law mines are, as evidenced by the background monitoring conducted to support the TMDL) and a viable coal industry is critical to improving stream quality going forward.

Response: MDE is in agreement that inclusion of a future allocation in the TMDL allows for future expansion of the mining industry while the TMDL itself will result in achievement of water quality. In addition, remining of existing abandoned mine lands has the potential to improve water quality while allowing for economic growth of the coal-mining industry.