



James W. Ridgway, P.E.
Executive Director

Allen Park
Auburn Hills
Beverly Hills
Bingham Farms
Birmingham
Bloomfield Hills
Bloomfield Twp.
Canton Twp.
Commerce Twp.
Dearborn
Dearborn Heights
Farmington
Farmington Hills
Franklin
Garden City
Inkster
Lathrup Village
Livonia
Melvindale
Northville
Northville Twp.
Novi
Oak Park
Oakland County
Orchard Lake
Plymouth
Plymouth Twp.
Pontiac
Redford Twp.
Rochester Hills
Romulus
Southfield
Superior Twp.
Troy
Van Buren Twp.
Walled Lake
Washtenaw County
Washtenaw County
Commission
Wayne
Wayne County
Wayne County Airport
Authority
West Bloomfield Twp.
Westland
Wixom

July 24, 2007

Ms. Brenda Sayles
MDEQ
Water Bureau
P.O. Box 30273
Lansing, MI 48909

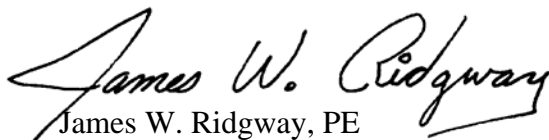
Dear Ms. Sayles:

The Alliance of Rouge Communities thanks you for the opportunity to comment on the Draft TMDLs for the Rouge River. Our specific comments are attached to this letter. We would also request a second meeting with your staff to further discuss the TMDL and how it will impact our communities in the future. Your staff has been extremely cooperative and forthcoming with information as we requested it. We are concerned, however, that the regulatory burden that may result from this analysis is inappropriately placed upon the communities; the same communities that have invested hundreds of millions of dollars to make the progress we have enjoyed to date.

Once you have had the opportunity to review our comments, we would ask that you allow us to further discuss these important matters with you. I can be reached at 313-963-6600.

Sincerely,

ALLIANCE OF ROUGE COMMUNITIES


James W. Ridgway, PE
Executive Director

A compilation of verbal comments from the ARC Technical Committee Meeting held on July 17th and written comments supplied by WCDOE, Northville Twp and the Alliance of Rouge Communities (ARC)

General Comments

1. What is the purpose of the Reasonable Assurance section? Please explain in the document.
2. What is the source of the land use data for each of the TMDLs? The most recent data from SEMCOG should be utilized. The land use data should be divided by community, so that each community can determine how their current land uses vary from the most recent SEMCOG data (this is especially important for rapidly developing communities).
3. Each of the TMDLs assumes that the MS4 permittees have control over the stormwater discharges from residential and commercial areas within their jurisdiction. However, many of these systems are privately owned. How will the state enforce the proposed limits on these private systems and for the MS4s?
4. In the MDEQ presentation it was noted that TMDL numeric allocations were not going to be assigned to individual MS4 permittees. MDEQ Permit staff have made statements to the effect that the “TMDL’s will be rolled into the individual MS4 permits”. Within each TMDL document there should be a statement that clarifies that the numeric TMDL allocations will not be assigned to each MS4 permit but that cumulatively through the iterative watershed management storm water permit process it is anticipated that the TMDL targets will be met. *Note:* Watershed-Based Storm Water Permit indicates that the Watershed Management Plans are to address TMDL concerns it does not require that individual permittees address them in their SWPPI’s nor does it authorize MDEQ staff to place numeric targets into the individual permittee certificates of coverage.
5. Is there a difference in the terms suspended sediment (SS) (from the DO TMDL) and the total suspended solids (TSS) (from the Biota TMDL)?

TMDL for E. coli for the Rouge River Watershed

Content Comments

6. The water quality goal for the *E. coli* TMDL is 300 cfu/100mL, regardless of flow conditions. The ARC is concerned that this goal is unrealistic as no urbanized area across the country can meet it, especially during wet weather conditions. Is it possible to at least use the partial body contact standard of 1,000 cfu/100mL for wet weather periods?
7. Can the MDEQ clarify the term ‘daily maximum’ when referring to the daily geometric mean. Does the daily maximum refer to the highest *E. coli* concentration for a given day? Or does the daily maximum refer to the geometric mean of a set of 3 or more values and that geometric mean must be lower than 300 cfu/100mL? If the later is the case, then it may be clearer to call it the daily geometric mean, and not the daily maximum.
8. It is not clear why the Upper and Main Branches were not assigned non-point loads, when the Lower (35%) and Middle (46%) were assigned non-point source loads. Is this based on what is considered the urbanized area? If so, can you please provide an explanation and map showing this area.
9. For each watershed, what was the number of acres used to calculate the daily load for the industrial storm water permits? How was this acreage derived?

10. Most industrial stormwater permits do not have *E. coli* limits associated with them (and therefore they are not required to do *E. coli* monitoring), so how can it be said that they are (or are not) in compliance with the water quality goal.
11. Will the communities be required to calculate an *E. coli* load in order to determine compliance with the TMDL?
12. If pollutant reduction goals from the TMDLs are rolled into the stormwater permit, how will enforcement be done? The waste allocations for industrial storm water permitted facilities are based on a model, utilizing land use types, soil conditions, rainfall, etc. WWTPs and CSO basin allocations are based on existing permit limits. We are concerned that enforcement may fall upon the MS4s. A significant challenge to the MDEQ is how to allocate to different MS4s. If MDEQ uses the land use model, it will not reflect BMPs (e.g. dog waste ordinance, septic inspection program, effective IDEP, etc.) that a community has implemented to decrease *E. coli* levels. How will the MDEQ handle counties that cover the same geographical area as other MS4 permittees?
13. It would be helpful to define the waste load allocation (WLA) prior to page 38.
14. Can a map be provided that shows the location of the known SSOs, CSOs and WWTPs and the sampling locations?

Typographical Errors

15. There is an inconsistency with the conversion value for fecal coliform counts to *E. coli* counts: 77% is listed on p. 39 and 71% is listed in Table 16. Which was used?
16. In Section 8, there is reference to a concentration based TMDL. Is this a typo?
17. The units for *E. coli* appear to be incorrect in Section 3.1.
18. Page 58, Table 26 “Westland passed an ordinance....septic systems within the City”.
19. Tables 15, 17, 19 and 21, should use the word high not “hi”.

TMDL for Dissolved Oxygen for Johnson Creek

Content Comments

20. Much of the data in the Data Discussion Section appears to be for the upper portion of the watershed, which is not part of this TMDL. Can this data and the subsequent discussion be deleted or put into an appendix, so as not to confuse the reader?
21. How does the 6 mg/L limit referred to in subsection 2(a) of R 323.1064 apply to Johnson Creek? If so, can it be used in determining compliance in the TMDL?
22. The dissolved oxygen (DO) data used to determine compliance with the 7 mg/L water quality standard is at best over 6 years old. More recent data should be collected to assess current conditions, as this is a rapidly developing area of the Rouge River watershed.
23. The pattern of intermittent but persistently recurring periods of DO less than 7 mg/l may have always existed in Johnson Creek. Has the MDEQ considered this?

24. It would be beneficial to see a little more detail on the 43,895 pieces of DO data collected at 7 Mile Road. How many samples were taken each year and what was the percent exceedence from year to year? Is there an upward or downward trend associated with the data from year to year?
25. How far back in time should the MDEQ consider water quality data for compliance purposes?
26. There is concern that the lower portion of Johnson Creek is subject to extremely low flows, like the upper portion. Can the MDEQ provide more information on the extent of the flow measurements presented in Appendix A? How many measurements were taken? Over what time period?
27. The TMDL assumes that the suspended sediment loads from the commercial and residential land uses are split equally between construction sites, MS4s and other residential and commercial not covered by a permit. What information is this assumption based on? Is this on a per acre basis or total load throughout the watershed?
28. What is the equivalent concentration for the 5 lb/day suspended sediment limit for the MS4s? The MS4s will need this information if they are to measure progress.
29. From the document, 84% of the SS load is from non-point sources and 3% is from MS4 permits. It does not seem reasonable to require 3% of the problem to do something when it isn't clear how 84% of the problem will be addressed. In other words, until substantive progress can be made on 84% of the loading problem, spending resources trying to achieve 85% reduction on 3% of the SS load would be an ill effective and inefficient use of resources. How will the non-point load reductions be addressed?
30. Low flow and stream morphology (limited aeration during normal flow) are recognized as limiting factors. The TMDL document should note that habitat and stream morphology improvement projects could be more effective and cost efficient than extraordinary pollution controls (those beyond MEP) at meeting TMDL DO targets and will be recognized as TMDL implementation activities (i.e. BMPs).

TMDL for Biota for the Rouge River Watershed, including Bishop and Tonquish Creeks
Content Comments

31. Overall, the biggest concern with the Biota TMDL is the data used to list the various stream reaches and the use of a “blanket approach”. The state is primarily relying on macro survey data collected in 2000 & 2005 that has consistent “acceptable” rankings and fish sampling conducted in 1995. The decision to list the entire watershed appears to rely on fish sampling only, but fish sampling has been very limited; only one site was sampled for fish community in 2005. The more recent macroinvertebrate sampling data would be more meaningful than the fish sampling results from 1995. How can the state justify this TMDL with such dated information and with “acceptable” macro scores at most sites?
32. The presentation given at the public meeting on June 27, 2007 contains one figure showing the location of sampling sites for 2005. However, similar figures for sampling sites in 1995 and 2000 were not presented during that public meeting. Can one or more maps be provided that shows the location and type of the sampling that was performed?
33. Given the MDEQ proposed to evaluate TMDL target attainment based on two consecutive years of sampling, the same approach should be applied to listing data. That is, the data from at least two consecutive monitoring events should be evaluated. If sampling at a single site results in a

“poor” rating, but the next results in an “acceptable” rating, then the data would be inconclusive and should not be used for listing or delisting. This is particularly true with biological community data due to the high degree of natural variability that is typical of such data. Can the state describe how the fish and macro data were evaluated?

34. Given that there are a total of nine listed reaches and at least four of those listed reaches were never sampled for fish community and many of the sites were not sampled in two consecutive events, how does the state justify listing all the reaches without more data?
35. Only one site in the entire Lower Rouge sub-watershed was rated as “poor” in 2005 and that was located on a small tributary. How can the Lower Rouge Subwatershed be included under the TMDL umbrella? Similar question for parts of the Main Branch above its confluence with the Upper Branch, the Franklin Branch, the Middle Rouge (except Bishop Creek), and the Evans Branch. How can the MDEQ chose to list the entire watershed without having watershed-wide data?
36. Data referenced in document indicates that majority of sites monitored have gone from “poor” to “acceptable” rating for macro invertebrates in just 10 years. The TMDL documents that Dry Weather Average TSS concentrations are within the “Good to Moderate” range and even the Wet Weather Average TSS concentrations are well below the “Poor” range for entire watershed as well as for each of the major branches. All of this has occurred with only partial implementation of CSO controls and initial voluntary storm water permit activities (BMPs). Given this much improvement with existing regulatory programs why is so much of the watershed still on the TMDL 303(d) list?
37. The TMDL recognizes that fish passage (the number of dams) is major limiting factor to fish community recovery and the data indicates the macroinvertebrate communities are recovering. Why is so much of the watershed still on TMDL 303(d) (a pollution control program) list for fish communities when major limiting factor is acknowledged as physical (dams)? Even without the connectivity problem wouldn't it naturally take longer for the fish community to recover relative to the macroinvertebrate community?
38. TMDLs should be defined as narrowly as possible due to the inherent legal, regulatory and financial ramifications. Can the MDEQ revise the TMDL to cover reaches where there is sufficient data and/or can the MDEQ provide a clearer summary of all the data that are being used to list the individual reaches and how data from one geographic area is being applied to other areas that were not sampled?
39. The “broad brush” approach taken by the MDEQ is inappropriate given that the data do not warrant listing of some branches and very long reaches or the mainstem and tributaries. In addition, the broad-brush approach prevents a focused effort on corrective actions where they are most needed. A more thorough job of data analysis and better listing decisions will create a better and more effective TMDL. What is the point in throwing an onerous TMDL over an entire watershed just because the agencies don't have the personnel, data, or science to appropriately identify real problems and develop geographically targeted, effective TMDLs?
40. The TMDL is based on TSS as a surrogate parameter under the assumption that TSS, flow regime, and stormwater management are directly correlated. It is very possible given the way this TMDL is written that a decrease in mean annual wet weather TSS concentrations could decrease over the next 10 to 20 years with no improvement in the fish and macroinvertebrate communities. If that occurs, MDEQ may be forced into a situation where it must impose storm water volume controls, particularly when the TMDL places so much emphasis on the importance of flow

regime. This could potentially have an impact on MS4 communities in the future. Furthermore, the TMDL states, “Achievement of the biological target will override this secondary target; however, if the TSS target is met, but the biological target not achieved, then the TSS target may be reevaluated.” This means that MDEQ will have the discretion to lower the target TSS concentration, placing further burden on MS4 communities in the future.

41. On pages 5 and 10, the MDEQ makes reference to “habitat connectivity” as a related issue. The comment on page 10 is particularly troublesome because it is used in the Linkage Analysis Section. Habitat connectivity cannot be evaluated or addressed in the context of the TMDL Waste Load Allocation and Load Allocation reduction targets. That is, there is no cause-effect relationship between habitat connectivity and TSS/flow. Furthermore, the TMDL does not provide a means by which habitat connectivity can be evaluated or monitored in the context of achieving the TMDL biological target. Habitat connectivity may be a real issue, but it is totally unrelated to the TMDL. Can these comments be removed from the document?
42. The Linkage Analysis Section does not present or discuss the scientific basis for establishing a linkage between TSS, flow, and fish and macroinvertebrate community health. Yet, the section concludes with the statement, “In summary, TSS loads in the Rouge River watershed, along with the commensurate decrease in flow volume and rate, should increase macroinvertebrate and fish community diversity and abundance, thus providing a tangible target towards meeting water quality standards. Can the MDEQ provide an explanation of how this conclusion was derived?
43. The TMDL states that attainment of the TSS target will be evaluated through analysis of TSS data collected during wet weather sampling but does not define “wet weather.” Can the MDEQ define this term?
44. Under the Monitoring Plan Section, the TMDL states that TSS sampling “may be conducted, if necessary.” However, it is not clear whether the MDEQ would conduct the supplemental TSS sampling or if communities would be required. Can this be clarified?
45. The TMDL includes the Main Branch from its confluence with the Lower Branch to its confluence with the Detroit River/Lake Erie. However, there apparently are no sampling points in that portion of the river. How will a reduction in TSS concentrations and/or an improvement in flow regime improve habitat in the concrete-lined portion of the Main Branch?
46. On page 3, the TMDL states that attainment of the biological target will be “...evaluated based on a minimum of two Procedure 51 assessments conducted in consecutive years following the implementation of efforts like Best Management Practices (BMPs) to stabilize runoff discharges and extremes in stream flow conditions, and minimize sediment loadings to the watershed.” What does “consecutive years” mean relative to the five-year rotation discussed in the Monitoring Plan Section? Does it mean that additional sampling will be conducted in back-to-back years or in two consecutive five-year cycles?
47. TMDL states that “Scores using the P-51 Procedure point to flow as a driving force.” However, the P-51 Procedure is a poor tool for establishing cause-effect relationships. Its intended and most valid use is to characterize conditions at a single point in space and time. Can the MDEQ revise this comment to more accurately reflect the nature of the conclusions drawn from P-51 results?

48. TMDL document should note that habitat and connectivity improvement projects are likely to be more effective and cost efficient than extraordinary pollution controls (those beyond maximum extent practicable) at meeting TMDL biota targets and will be recognized as TMDL implementation activities (i.e. BMPs).

Typographical Errors

49. Table 6: 133.3lbs/day is not 15% of 1092.3lbs/day. The last column is missing values.