BALTIMORE HARBOR WATERKEEPER®
A PROGRAM OF BLUE WATER BALTIMORE

Monday, September 16, 2013

Anthon V. Allred, Jr.
TMDL Technical Development Program
Department of the Environment
1800 Washington Blvd
Baltimore, MD 21230

Re: Public Comment for Proposed Draft "Total Maximum Daily Load (TMDL) of Polychlorinated Biphenyls (PCBs) in Lake Roland of Jones Falls Watershed in Baltimore County and Baltimore City, Maryland"

Dear Mr. Allred:

The purpose of this letter is to provide comment on the above-referenced document on behalf of Baltimore Harbor WATERKEEPER, a program of Blue Water Baltimore. Blue Water Baltimore's mission is to restore the quality of Baltimore's rivers, streams and harbor to foster a healthy environment, a strong economy, and thriving communities.

The proposed draft TMDL for PCBs in Lake Roland is an important tool for protecting water quality and public health through imposed reductions of watershed PCB contamination. Addressing PCB contamination is imperative in order to minimize the risks associated with fish-consumption practices in the Upper Jones Falls watershed and Lake Roland, as well as further downstream in the Lower Jones Falls and Baltimore Harbor.

1. Lack of wet-weather, and overall limited, tributary and water column data leads to likely underestimation of PCB baseline concentrations in TMDL modeling.

Quarterly sampling (4 sampling events total) for PCB did not produce wet-weather associated PCB data for sampling stations in Lake Roland and its contributing tributaries.[1] This apparent lack of wet-weather data leads to likely underestimation of baseline PCB concentration in Lake Roland water column and tributary streams for the its largest sources, "Non-regulated Watershed Runoff" (47.77% of Total Baseline Load) and "NPDES Regulated Stormwater" (41.3% of Total Baseline Load).[2] The TMDL asserts without citation to relevant scientific literature that "…acute exposure to temporary fluctuations in PCB water column concentrations during storm events is not a significant pathway for uptake of PCBs."[3] However, assuming that storm fluctuations in water column concentrations of PCB do not result in significant, immediate PCB uptake by finfish, stormwater runoff from non-point and point sources is still the primary pathway for loading of PCB-contaminated sediments to the Lake Roland embayment. MDE's decision to neither measure nor account for PCB resuspension and diffusion from these deposited sediments further compounds the underestimation of PCB loading to the Lake Roland system, resulting in inaccurate and underestimated baseline load allocations for contributing non-point and point sources.

2. Impervious cover restoration requirements under the Municipal Separate Storm Sewer System (MS4) permits are not a satisfactory proxy for PCB source tracking and contaminated site remediation as suggested by the Draft TMDL.

Restoration of impervious cover under the MS4 permits does not address PCB contamination without first determining the source and location of PCB-contaminated soils. The proposed TMDL fails to cite any relevant research suggesting that the sediment removal efficiencies for impervious cover restoration BMP's are positively correlated to PCB source elimination. In fact, it is as likely that impervious cover removals or excavations associated with implementation of bioretention retrofits could uncover previously-undetected PCB-contaminated soils, which had been previously contained by the impervious cover or upper soil layers. Therefore, any approval of alternative BMP water quality based effluent limits must be predicated on fact-based demonstration that "numeric effluent limitations are infeasible," because defensible BMPs and monitoring (e.g. PCB source tracking and elimination) are technically infeasible.[4] Approval of BMPs for impervious cover restoration to meet PCB effluent limits may be warranted but only if predicated upon enforceable schedules for source tracking and positive identification of contaminated sites to justify that the proposed BMP will result in a reduction of PCB.

---

[1] Leonard Schugam, MDE. Sept. 10, 2013. Pers. Comm. at Information Briefing for "TMDL of Polychlorinated Biphenyls in Lake Roland of Jones Falls Watershed in Baltimore County and Baltimore City, Maryland."

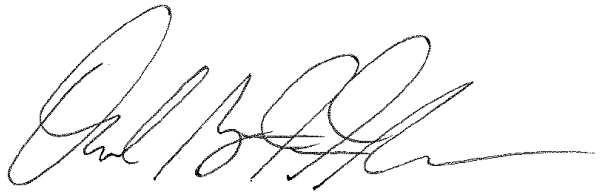
[2] MDE. 2013. "TMDL of Polychlorinated Biphenyls in Lake Roland of Jones Falls Watershed in Baltimore County and Baltimore City, Maryland." 31.

[3] MDE. 2013. "TMDL of Polychlorinated Biphenyls in Lake Roland of Jones Falls Watershed in Baltimore County and Baltimore City, Maryland." 27.

[4] "(iii) Any request for this waiver must be submitted when applying for a re-issued permit or modification of a re-issued permit. The request must demonstrate through sampling or other technical information, including information generated during an earlier permit term that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger." Code of Federal Regulations. 2013. 40 CFR 122.44(k) http://www.gpo.gov/fdsys/pkg/CFR-2011-title40-vol22/pdf/CFR-2011-title40-vol22-sec122-44.pdf (Accessed September, 2013).

Thank you for your attention and consideration. Please let us know if you would like to discuss further.

Sincerely,



David G. F. Flores, Water Quality Manager
Baltimore Harbor WATERKEEPER Program
Blue Water Baltimore
3545 Belair Road
Baltimore, Maryland 21213
410-254-1577, x108, dflores@bluewaterbaltimore.org