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April 23, 2018

Via E-mail: Sincoc.Jennifer@epa.gov

Jennifer Sincoc
Office of Standards, Assessment, and TMDLs
Water Protection Division
U.S. EPA Region III
1650 Arch Street (3WP30)
Philadelphia, PA 19103

Re: Indian Creek TMDL

Dear Jennifer:

Please accept this comment letter as a follow up to the Indian Creek TMDL Stakeholder Webinar ("Webinar") held by EPA on March 22, 2018, in connection with the revised sediment TMDL for the Indian Creek Watershed. As you are aware, I represent Lower Salford Township, Lower Salford Township Authority, Franconia Township and Franconia Sewer Authority with respect to the Indian Creek TMDL.

My specific comments are as follows:

1. To provide the municipal entities with the ability to evaluate the information presented during the Webinar, I am requesting that EPA supply the input data used to run the GWLF-E model for the Indian Creek watershed and sub-watersheds (e.g., land use, soil erodibility, CN, length-slopes, stream lengths, bank heights, etc.).
2. The amount of stream bank erosion is generally considered to be a function of the length of the stream course. Since there appears to be some uncertainty regarding the transition point between non-streams (e.g., drainage ditches and swales) and true stream channels, how was "stream" defined for estimating total stream length and stream bank erosion?
3. Specifically with respect to the scenarios presented during the Webinar, it is difficult to support either Scenario 1 or Scenario 2, both of which include five percent (5%) future growth, which reduces the allocated load for the municipalities and increases the required reduction. Any future projects (future growth) would be required to obtain their own NPDES permit if the earth disturbance was greater than one acre.

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4. A distribution that is focused on agricultural land and streambank stabilization is more appropriate in the Indian Creek Watershed since this provides a distribution that addresses the cause of the impairment more specifically than considering all land uses equally. By way of example, the Boroughs have a greater concentration of impervious area, which increases the streambank erosion percentages; conversely, the Townships have a greater area of agricultural land, including the non-MS4 Nonpoint Source area which is primarily agricultural land.

5. During the Webinar, it was stated that the problem of excess sediments is due to long-term causes and, as a result, any process to address this issue would necessarily be implemented over decadal time scales. It was suggested that, as long as the progress was ongoing over this long-term implementation, the responding parties would be assumed to be in compliance with the objectives of the Indian Creek TMDL. By way of example, a 10% reduction in sediment loading per MS4 permit was suggested as a reasonable target. Would the attainment of a target, such as suggested in the prior sentence, be estimated with the GWLF-E model or by some other method?

6. Does EPA consider compliance with the terms/conditions of a municipality's MS4 permit to also be considered compliance with the Indian Creek TMDL or water quality objectives of the Indian Creek Watershed?

7. During the Webinar, EPA's consultant indicated that the agricultural areas were surveyed, and it was discovered that these areas were more likely to be "cropland" rather than "pasture". I am trying to clarify the use of these terms. Does "cropland", as discussed in the presentation, include areas planted in hay and clover, or were the hay/clover fields in the watershed called "pasture" (or something else) that distinguishes these densely vegetated areas from row crops?

8. With respect to EPA's discussion on sediment loadings to Indian Creek, was a sediment delivery ratio used to adjust for the proportion of eroded soil from the watershed that was ultimately estimated to be delivered to Indian Creek?

9. Given the presumed interaction of sediments and nutrients, does EPA view a reduction in sediments as one method of nutrient control in the Indian Creek Watershed?

10. The sediment TMDL has two layers of conservatism. First, it appears that the sediment loading from a high quality stream (Birch Run) was used as a reference watershed to set the target for achieving moderate quality macrobenthos community in the Indian Creek Watershed. Secondly, macrobenthos impairment was effectively double counted as a pretext for two separate TMDLs; the same impairment is attributed to both excess nutrients and to excess sediments individually as if each, alone, caused all the impairment. Given this duplicative, high degree of conservatism, has EPA considered foregoing both safety factors (the 5% Margin of Safety, and the 5% safety factor for Future Growth) in the final Indian Creek TMDL.

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11. How will EPA ensure the co-operation of PennDOT and the Turnpike Commission with the municipal entities, which cooperation appears to be a critical component of EPA's revised framework of the sediment portion of the Indian Creek TMDL.

12. During the question and answer portion of the Webinar, it was requested that the comments from the August 2017 meeting and any comments from this Webinar be provided to everyone. The EPA said that it would provide such information. It is not clear how the comments from the August 2017 meeting have been addressed since the sediment loads provided in the March 22, 2018 Webinar have not changed.

13. There is a discrepancy in the Webinar presentation documents regarding the existing sediment load. On Slide 18 of the Power Point presentation, the total existing sediment load is shown as 4,275 metric tons/year, which is consistent with the August 2017 report. However, on the separate handout the total existing sediment load is listed as 4,286.13 metric tons/year. Why are these different? (This is a difference of 24,500 lbs/year)

Thank you for considering these comments. If you have any questions, or require any clarification, please feel free to contact me.

Very truly yours,

HAMBURG, RUBIN, MULLIN,
MAXWELL & LUPIN

By: 

STEVEN A. HANN

SAH:adr