

Date January 25, 2001

Robert Smith, Chief
Water Bureau/Standards and Planning Division
Connecticut Department of Environmental Protection
79 Elm Street
Hartford, CT 01606

Dear Mr. Smith:

Thank you for the submittal of **A Total Maximum Daily Load Analysis, Steele Brook, Watertown Connecticut** for copper. This surface water is included on Connecticut's 1998 303(d) list and was targeted for TMDL development by April 1st, 2000. This Total Maximum Daily Load (TMDL) analysis was developed to address the aquatic life support impairment in Steele Brook due to point and nonpoint sources.

The U.S. Environmental Protection Agency New England (EPA New England) hereby approves Connecticut's final TMDL analysis for copper, received by EPA New England on January 19, 2001. We have determined that the Steele Brook TMDL for copper meets the requirements of §303(d) of the Clean Water Act (CWA), and EPA's implementing regulations (40 CFR Part 130).

The final submittal includes all the required elements of a TMDL; loading capacity, load allocations, waste load allocations, margin of safety seasonal variation, and public participation process. Consistent with EPA policies, the TMDL also includes an implementation plan addressing the primary source contributing to the impairment. In addition, Connecticut DEP has provided reasonable assurances that the necessary controls will be implemented in a timely manner.

We recognize the future benefits of this TMDL for the aquatic life in Steele Brook. In particular, we understand that the elimination of the Watertown Fire District Sewage Treatment Facility discharge from Steele Brook will allow the future upgrading of the Water Quality Classification from Class B to Class A below the former discharge point. Upgrading the waterbody to Class A will preclude the permitting of new point source loadings to Steele Brook (TMDL, page 15), and will provide an overall benefit to the aquatic life in Steele Brook.

My staff and I look forward to continued cooperation with Connecticut DEP in exercising our shared responsibility to implement the requirements under Section 303(d) of the CWA. We would also like to thank Chris Bellucci of your staff for his dedication to completing this TMDL. If you have any questions or comments regarding the attached approval documentation, please contact me at (617) 918-1500, or Ms. Jeanne Voorhees at (617) 918-1686.

Sincerely,

Linda M. Murphy, Director
Office of Ecosystem Protection

Enclosure

cc: Tom Morrissey, CT DEP
Lee Dunbar, CT DEP
Chris Bellucci, CT DEP
Ron Manfredonia, EPA
Ann Williams, EPA
Lynne Hamjian, EPA
Roger Janson, EPA

EPA NEW ENGLAND'S APPROVAL DOCUMENTATION FOR CT DEP'S STEELE BROOK TMDL ANALYSIS

Effective Date:

Section 303(d) of the Clean Water Act (CWA) and EPA's implementing regulations at 40 C.F.R. § 130 describe the statutory and regulatory requirements for approvable TMDLs. The following information is generally necessary for EPA to determine if a submitted TMDL fulfills the legal requirements for approval under Section 303(d) and EPA regulations, and should be included in the submittal package. Use of the verb "must" below denotes information that is required to be submitted because it relates to elements of the TMDL required by the CWA and by regulation.

*EPA New England received a **Total Maximum Daily Load Analysis, Steele Brook, Watertown, Connecticut** from the Connecticut Department of Environmental Protection (CT DEP) on (January 19, 2001) with a request to review and approval a TMDL for copper. The TMDL submission and our approval documentation includes the following:*

- *Submittal letter dated January 12, 2001, and received by EPA New England January 19, 2001,*
- *A Total Maximum Daily Load Analysis, Steele Brook, Watertown, CT,*
- *Response to Comments,*
- *Steele Brook TMDL Support Document (Chris Bellucci, August 7, 2000), and*
- *Affidavit of Publication, Waterbury Republican-American, November 21, 2000.*

1. Description of Waterbody, Pollutant of Concern, Pollutant Sources and Priority Ranking

The TMDL analytical document must identify the waterbody as it appears on the State/Tribe's 303(d) list, the pollutant of concern and the priority ranking of the waterbody. The TMDL submittal must include a description of the point and nonpoint sources of the pollutant of concern, including the magnitude and location of the sources. Where it is possible to separate natural background from nonpoint sources, a description of the natural background must be provided, including the magnitude and location of the source(s). Such information is necessary for EPA's review of the load and wasteload allocations which are required by regulation. The TMDL submittal should also contain a description of any important assumptions made in developing the TMDL, such as: (1) the assumed distribution of land use in the watershed; (2) population characteristics, wildlife resources, and other relevant information affecting the characterization of the pollutant of concern and its allocation to sources; (3) present and future growth trends, if taken into consideration in preparing the TMDL; and, (4) explanation and analytical basis for expressing the TMDL through surrogate measures, if applicable. Surrogate measures are parameters such as percent fines and turbidity for sediment impairments, or chlorophyll *a* and phosphorus loadings for excess algae.

a. Description of surface water, pollutant of concern and priority ranking as appears on 303(d) list:

The final TMDL document identifies Steele Brook as it appears in Connecticut's 1998 List of Waterbodies Not Meeting Water Quality Standards including its priority ranking for the development of a TMDL for copper.

An adequate description of Steele Brook's physical and biological characteristics, and watershed and land uses is presented in the final TMDL (see pages 2 and 5). Also, figures are provided which locate the brook and depict the land uses in the watershed (see Figures 1 and 2, respectively).

Copper is identified in the final TMDL document as the pollutant of concern. The final TMDL provides an adequate description of the sources of copper: the Watertown Fire District Sewage Treatment Plant and Sherwood Medical Site (see pages 5 and 6). During the development of this TMDL, agreement was reached that the Watertown Fire District could not construct and operate a treatment facility capable of achieving consistent water quality based copper limits in Steele Brook. Thus, a decision was made to eliminate the Watertown Fire District's discharge from Steele Brook, and redirect it to the City of Waterbury's sewage treatment facility (TMDL page 5).

EPA New England concludes that the final TMDL document adequately identifies and describes the surface water, pollutant of concern, and priority ranking of Steele Brook as it appears on the 1998 303(d) list.

b. Point source(s): magnitude and location

When the 1998 303(d) list was published, the Watertown Fire District Sewage Treatment Plant was identified as the sole point source of copper to Steele Brook. However, as explained in the final TMDL document, since the publication of the 1998 list, the treatment plant discharge has been removed from Steele Brook, and is, therefore, no longer a point source of copper; nor do other point source discharges exist on Steele Brook.

c. Nonpoint source(s): magnitude and location

A contaminated groundwater plume emanating from the Sherwood Medical site is identified in the final TMDL as the primary existing nonpoint source of copper (see page 12). To address contamination from this site, a groundwater interception and treatment system has been constructed (TMDL, page 6). Connecticut DEP could not estimate the remaining (untreated) mass loading of copper to the brook from the groundwater plume since the volume of groundwater escaping capture by the interim remediation system is currently unknown (TMDL, page 6). However, a load allocation for the Sherwood Medical site was estimated to address this source and reasonable assurances that this site is required to be remediated, such that water quality standards will be met, are provided in the TMDL (see page 15-16). Estimations of the magnitude of the nonpoint source concentrations of copper originating from

the watershed were developed by using ambient data from the Mattabasset River which drains a similarly developed watershed and does not receive point source discharges.

A general description of the nonpoint source contributions, as related to current and past land use activities and surface runoff, is presented in the TMDL (page 5). The upper watershed is described generally as undeveloped and therefore, Connecticut DEP believes that surface runoff is not a significant contributor to total pollutant loading in this portion of the watershed. The lower portion of the watershed is generally described as more heavily developed, and is therefore believed to contribute more significantly to nonpoint pollutant loads (TMDL, page 5). However, based on monitoring data from other similarly developed watersheds, CT DEP believes that criteria for dissolved copper will not be exceeded solely as a result of nonpoint runoff (TMDL page, Reasonable Assurance Section, page 16).

EPA New England concludes that the final TMDL adequately describes the nonpoint source of copper, including background. Furthermore, we believe that the approach taken by CT DEP to estimate nonpoint source concentrations is appropriate because it represents a practical estimation of copper concentrations in a similar watershed with measured copper concentrations.

2. Description of the Applicable Water Quality Standards and Numeric Water Quality Target

The TMDL submittal must include a description of the applicable State/Tribe water quality standard, including the designated use(s) of the waterbody, the applicable numeric or narrative water quality criterion, and the antidegradation policy. Such information is necessary for EPA's review of the load and wasteload allocations which are required by regulation. A numeric water quality target for the TMDL (a quantitative value used to measure whether or not the applicable water quality standard is attained) must be identified. If the TMDL is based on a target other than a numeric water quality criterion, then a numeric expression, usually site specific, must be developed from a narrative criterion and a description of the process used to derive the target must be included in the submittal.

a. Description of Applicable Water Quality Standards

An adequate description of the applicable water quality standard, including designates use(s), is provided in the TMDL document (TMDL, page 7). Steele Brook is designated Class A from the headwaters to the former outfall at the Watertown Fire District facility. Below this facility, the designation changes to Class B to reflect the presence of a sewage discharge.

b. Applicable Numeric Targets

The applicable numeric water quality criteria for dissolved copper are identified in the final TMDL document (page 7), and are consistent with CT DEP's water quality standards (CT DEP 1997). Additionally, a support document was prepared by CT DEP (August 7, 2000), in response to discussions with EPA, to further explain the application of CT's "rare exceedance"

copper criterion versus the median copper criterion.

3. Loading Capacity - Linking Water Quality and Pollutant Sources

As described in EPA guidance, a TMDL identifies the loading capacity of a waterbody for a particular pollutant. EPA regulations define loading capacity as the greatest amount of loading that a water can receive without violating water quality standards (40 C.F.R. § 130.2(f)). The loadings are required to be expressed as either mass-per-time, toxicity or other appropriate measure (40 C.F.R. § 130.2(i)). The TMDL submittal must identify the waterbody's loading capacity for the applicable pollutant and describe the rationale for the method used to establish the cause-and-effect relationship between the numeric target and the identified pollutant sources. In most instances, this method will be a water quality model. Supporting documentation for the TMDL analysis must also be contained in the submittal, including the basis for assumptions, strengths and weaknesses in the analytical process, results from water quality modeling, etc. Such information is necessary for EPA's review of the load and wasteload allocations which are required by regulation.

In many circumstances, a critical condition must be described and related to physical conditions in the waterbody as part of the analysis of loading capacity (40 C.F.R. § 130.7(c)(1)). The critical condition can be thought of as the "worst case" scenario of environmental conditions in the waterbody in which the loading expressed in the TMDL for the pollutant of concern will continue to meet water quality standards. Critical conditions are the combination of environmental factors (e.g., flow, temperature, etc.) that results in attaining and maintaining the water quality criterion and has an acceptably low frequency of occurrence. Critical conditions are important because they describe the factors that combine to cause a violation of water quality standards and will help in identifying the actions that may have to be undertaken to meet water quality standards.

a. Loading Capacity and Critical Conditions

The final TMDL document calculates the loading capacity for copper by multiplying the critical streamflow rate, under 7Q10 conditions, by the rare exceedence criterion for dissolved copper (14.3 ug/l). The TMDL document provides a discussion of the critical conditions for Steele Brook, and describes the methods used to calculate the critical 7Q10 condition through the application of the U.S. Geological Survey method of Cervione et. al. (1982). Critical conditions are defined in the TMDL document as the "worst case" scenario of environmental conditions in Steele Brook for which the pollutant loading capacity expressed in a TMDL will not exceed water quality criteria adopted by the State of Connecticut (TMDL page 8). This determination of critical low flow condition is in accordance with CT DEP's WQS; in particular, Standard Eleven (CT DEP 1997).

b. Assumptions

The development of this TMDL included assumptions regarding the fate of copper after discharging to Steele Brook. It was assumed that copper behaved conservatively after discharge

to Steele Brook; specifically, that copper was present in the dissolved phase without adsorption to particulate and the absence of attenuation, except through dilution. Applying this assumption will likely result in an overestimation of downstream dissolved copper concentrations since adsorption and attenuation will actually occur.

An assumption was made that existing water withdrawals from Steele Brook would not exceed the maximum allowed for two country clubs. The estimation of water withdrawals from Steele Brook presents a potential weakness in the TMDL because the predicted critical streamflow could be, theoretically, lower than estimated if the two clubs withdrew water from Steele Brook at their maximum permitted levels. However, EPA currently supports CT DEP's Best Professional Judgement and approach for estimating flow diversions because, as recognized in the TMDL, actual water withdrawals from the country club and golf club do not currently equal the maximum allowed under the clubs' permit registrations. EPA emphasizes that, if during the summer months water withdrawals exceed the estimated 0.1 cfs, there is a potential for water quality standards to be exceeded. In this case, Steele Brook would remain on the §303(d) List of Impaired Waterbodies, and it would be necessary for CT DEP to revise the TMDL.

c. Strengths and Weaknesses

The assumptions regarding the chemical phase of copper (e.g. dissolved) and its ultimate fate of represent a conservative approach used in the development of the TMDL and can be considered as strength in the analysis. Connecticut DEP considered that copper is in the most toxic, bioavailable form (e.g. dissolved), and that no attenuation, except through dilution, would occur. If in-stream data were collected, it would be expected that some portion of the discharged metal would not be bioavailable, and that some portion of copper would be attenuated through natural processes. Rather than expending resources and time to collect in-stream data that could be used to predict the quantity of copper that is dissolved, or adsorbed to particulate, or be used to determine attenuation, Connecticut DEP chose a simple and conservative approach.

One weakness in the analysis is the unavailability of site-specific data to establish the nonpoint source and natural background loadings of the pollutants. Considering that CT DEP relied upon measured concentrations in a similar watershed, nonpoint and/or natural background source contributions could be either higher or lower than estimated for Steele Brook. However, CT DEP based their estimates of nonpoint and natural background sources on reasonable, conservative assumptions (TMDL, page 10). EPA New England believes these assumptions are reasonable because they represent a practical estimation of copper concentrations in a similar watershed for which concentrations have been measured. Furthermore, monitoring data from other similarly developed watersheds indicate a high probability that dissolved copper criteria will not be exceeded solely due to nonpoint runoff (TMDL page 16).

4. Load Allocations (LAs)

EPA regulations require that a TMDL include LAs, which identify the portion of the loading capacity allocated to existing and future nonpoint sources and to natural background (40 C.F.R.

§ 130.2(g)). Load allocations may range from reasonably accurate estimates to gross allotments (40 C.F.R. § 130.2(g)). Where it is possible to separate natural background from nonpoint sources, load allocations should be described separately for background and for nonpoint sources.

If the TMDL concludes that there are no nonpoint sources and/or natural background, or the TMDL recommends a zero load allocation, the LA must be expressed as zero. If the TMDL recommends a zero LA after considering all pollutant sources, there must be a discussion of the reasoning behind this decision, since a zero LA implies an allocation only to point sources will result in attainment of the applicable water quality standard, and all nonpoint and background sources will be removed.

The TMDL identifies the load allocations (LAs) on pages 9-12. The LA for Steele Brook was separated into two components: natural background and existing/future nonpoint LAs. The natural background LA and existing/future nonpoint LA were summed to calculate the total LA.

Estimates of the natural background load allocation were calculated by multiplying the critical streamflow under 7Q10 conditions by an estimated critical concentration for dissolved copper. Critical concentrations of copper were estimated based on a comparison of known concentrations in the Mattabasset River which drains a similarly developed watershed that does not have any point source discharges of copper. EPA New England agrees with the selected copper concentration, 2.4 ug/l, because it represents a summer mean concentration, and therefore, represents the most likely concentration to occur during summer low flow conditions.

The estimated LA in the final TMDL document is based upon dissolved copper concentrations observed during summer low flow periods in the Mattabasset River, which drains a similarly developed watershed, and does not have any point source contributions of copper. EPA New England believes this approach is reasonable because it represents a practical estimation of dissolved copper concentrations.

Existing/future LA was allocated to the model point at the Sherwood Medical site and the modeling point below this site because the Sherwood Medical site is the only known nonpoint source contributing copper to Steele Brook, beyond natural background. The TMDL provides the calculations for the existing/future LA on pages 10 and 11. Also, CT DEP developed a response to EPA comments (EPA, December 5, 2000) which provides additional details explaining the development of the Natural Background LA and Existing/Future LA for this TMDL (see Response to Comments). EPA agrees with the approach that CT DEP developed because it addresses our initial concern that the Sherwood Medical site was not allocated a copper loading.

5. Wasteload Allocations (WLAs)

EPA regulations require that a TMDL include WLAs, which identify the portion of the loading capacity allocated to existing and future point sources (40 C.F.R. § 130.2(h)). If no point

sources are present or if the TMDL recommends a zero WLA for point sources, the WLA must be expressed as zero. If the TMDL recommends a zero WLA after considering all pollutant sources, there must be a discussion of the reasoning behind this decision, since a zero WLA implies an allocation only to nonpoint sources and background will result in attainment of the applicable water quality standard, and all point sources will be removed.

In preparing the wasteload allocations, it is not necessary that each individual point source be assigned a portion of the allocation of pollutant loading capacity. When the source is a minor discharger of the pollutant of concern or if the source is contained within an aggregated general permit, an aggregated WLA can be assigned to the group of facilities. But it is necessary to allocate the loading capacity among individual point sources as necessary to meet the water quality standard.

The TMDL submittal should also discuss whether a point source is given a less stringent wasteload allocation based on an assumption that nonpoint source load reductions will occur. In such cases, the State/Tribe will need to demonstrate reasonable assurance that the nonpoint source reductions will occur within a reasonable time.

As discussed in the final TMDL document (page 5), the Watertown Fire District sewage treatment facility represented a significant source of copper to Steele Brook prior to its elimination. This point source no longer discharges to Steele Brook given the recent decision (October 4, 2000) to treat the Watertown Fire District's sewage at the City of Waterbury's sewage treatment facility. The elimination of the Watertown Fire District's discharge represents the last point source discharge to Steele Brook (TMDL, 5 page). Therefore, the TMDL sets the Waste Load Allocation for copper (page 12) equal to zero since point source discharges to Steele Brook do not exist.

EPA New England agrees with CT DEP's decision to set the WLA equal to zero, since the only remaining point source discharge of copper (the Watertown Fire District treatment facility) has been eliminated from Steele Brook.

6. Margin of Safety (MOS)

The statute and regulations require that a TMDL include a margin of safety to account for any lack of knowledge concerning the relationship between load and wasteload allocations and water quality (CWA § 303(d)(1)(C), 40 C.F.R. § 130.7(c)(1)). EPA guidance explains that the MOS may be implicit, i.e., incorporated into the TMDL through conservative assumptions in the analysis, or explicit, i.e., expressed in the TMDL as loadings set aside for the MOS. If the MOS is implicit, the conservative assumptions in the analysis that account for the MOS must be described. If the MOS is explicit, the loading set aside for the MOS must be identified.

The final TMDL document calculates explicit MOS by subtracting the sum of the LA and WLA from the TMDL (page 12). Also, implied MOS is included in the TMDL based on the conservative assumption that copper is present in a completely dissolved, readily bioavailable

form (TMDL, page 13). This assumption provides implied MOS because some portion of the copper will not actually be bioavailable due to adsorption to particulate material. Also, attenuation of copper is assumed to occur through dilution, and natural processes that serve to attenuate the toxicity of copper were not accounted for in the model. EPA New England is in agreement that some implied MOS is provide by assuming no additional instream attenuation of metals. It is likely that additional attenuation occurs instream due to sorption and settling processes, and that copper concentrations may be overestimated using this approach.

7. Seasonal Variation

The statute and regulations require that a TMDL be established with consideration of seasonal variations. The method chosen for including seasonal variations in the TMDL must be described (CWA § 303(d)(1)(C), 40 C.F.R. § 130.7(c)(1).

Seasonality is addressed in the final TMDL by estimates of the critical stream flow conditions based on the potential occurrence of low flows during any season of the year (TMDL, page 13). Connecticut DEP applied the U.S. Geological Survey method of Cervione et. al. to estimate natural stream flow under 7Q10 conditions. Given that the WLA and LA were based on critical conditions, CT DEP believes that the TMDL is protective of all seasonal conditions (TMDL, page 13).

EPA New England believes that the TMDL is likely protective of water quality for all seasonal conditions because it was established for critical low flow conditions when the impacts are most pronounced.

8. Monitoring Plan for TMDLs Developed Under the Phased Approach

EPA's 1991 document, Guidance for Water Quality-Based Decisions: The TMDL Process (EPA 440/4-91-001), recommends a monitoring plan when a TMDL is developed under the phased approach. The guidance recommends that a TMDL developed under the phased approach also should provide assurances that nonpoint source controls will achieve expected load reductions. The phased approach is appropriate when a TMDL involves both point and nonpoint sources and the point source is given a less stringent wasteload allocation based on an assumption that nonpoint source load reductions will occur. EPA's guidance provides that a TMDL developed under the phased approach should include a monitoring plan that describes the additional data to be collected to determine if the load reductions required by the TMDL lead to attainment of water quality standards.

As stated on page 15 of the final TMDL, at the Sherwood Medical Site, groundwater monitoring is required under the terms of the Consent Order. Monitoring in Steele Brook will be performed by CT DEP consistent with the Rotating Basins Ambient Monitoring Plan to determine the attainment of WQS and restoration of designated uses. In addition, CT DEP's fishery division will be documenting the fish population(s) in Steele Brook.

EPA New England supports the conditions of this monitoring approach because it will assist in the evaluation of the adequacy of the TMDL, and the efficacy of the Consent Order to implement conditions as specified to meet WQS.

9. Implementation Plans

On August 8, 1997, Bob Perciasepe (EPA Assistant Administrator for the Office of Water) issued a memorandum, "New Policies for Establishing and Implementing Total Maximum Daily Loads (TMDLs)," that directs Regions to work in partnership with States/Tribes to achieve nonpoint source load allocations established for 303(d)-listed waters impaired solely or primarily by nonpoint sources. To this end, the memorandum asks that Regions assist States/Tribes in developing implementation plans that include reasonable assurances that the nonpoint source load allocations established in TMDLs for waters impaired solely or primarily by nonpoint sources will in fact be achieved. The memorandum also includes a discussion of renewed focus on the public participation process and recognition of other relevant watershed management processes used in the TMDL process. Although implementation plans are not approved by EPA, they help establish the basis for EPA's approval of TMDLs.

The final basis for implementation is provided by the elimination of the Watertown Fire District treatment facility discharge to Steele Brook in early October 2000. Additionally, the remediation of the Sherwood Medical Site is currently underway, and is being implemented under the terms and requirements of the Consent Order between American Home Products and CT DEP.

10. Reasonable Assurances

EPA guidance calls for reasonable assurances when TMDLs are developed for waters impaired by both point and nonpoint sources. In a water impaired by both point and nonpoint sources, where a point source is given a less stringent wasteload allocation based on an assumption that nonpoint source load reductions will occur, reasonable assurance that the nonpoint source reductions will happen must be explained in order for the TMDL to be approvable. This information is necessary for EPA to determine that the load and wasteload allocations will achieve water quality standards.

In a water impaired solely by nonpoint sources, reasonable assurances that load reductions will be achieved are not required in order for a TMDL to be approvable. However, for such nonpoint source-only waters, States/Tribes are strongly encouraged to provide reasonable assurances regarding achievement of load allocations in the implementation plans described in section 9, above. As described in the August 8, 1997 Perciasepe memorandum, such reasonable assurances should be included in State/Tribe implementation plans and "may be non-regulatory, regulatory, or incentive-based, consistent with applicable laws and programs."

The elimination of the Watertown Fire District's discharge and the terms and requirements of the Consent Order to remediate Sherwood Medical Site such that WQS are met, offers reasonable assurance that controls have been, and will be continue to be implemented, and that WQS will be met in Steele Brook. As explained on page 6, achieving consistency with the Remediation Standard Regulations requires demonstration that the groundwater plume from the Sherwood Medical site will not cause excursions above the CT WQS in Steele Brook.

*Additional reasonable assurance is offered in the TMDL through the Provisions for Revising the TMDL (TMDL, pages 16-17). Connecticut DEP recognizes that future modification to the TMDL may be warranted based on new information and biological monitoring, and reserves the right to make necessary modifications. Finally, CT DEP recognizes that Steele Brook will continue to be listed on the **Connecticut Waterbodies Not Meeting Water Quality Standards** until such time as monitoring data confirms that aquatic life uses are fully supported (TMDL page 17).*

11. Public Participation

EPA policy is that there must be full and meaningful public participation in the TMDL development process. Each State/Tribe must, therefore, provide for public participation consistent with its own continuing planning process and public participation requirements (40 C.F.R. § 130.7(c)(1)(ii)). In guidance, EPA has explained that final TMDLs submitted to EPA for review and approval must describe the State/Tribe's public participation process, including a summary of significant comments and the State/Tribe's responses to those comments. When EPA establishes a TMDL, EPA regulations require EPA to publish a notice seeking public comment (40 C.F.R. § 130.7(d)(2)).

Inadequate public participation could be a basis for disapproving a TMDL; however, where EPA determines that a State/Tribe has not provided adequate public participation, EPA may defer its approval action until adequate public participation has been provided for, either by the State/Tribe or by EPA.

Public participation for this TMDL was achieved in accordance with CT DEP's statutes. Documentation of the public participation and DEP's response to comments were included in the TMDL submittal to EPA (see Affidavit of Publication). "A Notice of Intent to Adopt A Total Maximum Daily Load Analysis for Steele Brook" was published in the Waterbury Republican-American on November 7, 2000. A public comment period was designated for thirty days.

EPA New England concludes that CT DEP provided reasonable opportunities for public involvement and comment.

12. Submittal Letter

A submittal letter should be included with the TMDL analytical document, and should specify whether the TMDL is being submitted for a technical review or is a final submittal. Each final TMDL submitted to EPA must be accompanied by a submittal letter that explicitly states that the submittal is a final TMDL submitted under Section 303(d) of the Clean Water Act for EPA review and approval. This clearly establishes the State/Tribe's intent to submit, and EPA's duty to review, the TMDL under the statute. The submittal letter, whether for technical review or final submittal, should contain such information as the name and location of the waterbody, the pollutant(s) of concern, and the priority ranking of the waterbody.

The submittal letter adequately identified the TMDL as a final document submitted under Section 303(d) of the Clean Water Act for EPA review and approval.