



INLAND BAYS FOUNDATION, INC.

Fostering Environmental Awareness and Action

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THE INLAND BAYS FOUNDATION, INC.'S CITIZENS PETITION FOR THE DESIGNATION REGULATION OF SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS DISCHARGING INTO DELAWARE'S INLAND BAYS

I. INTRODUCTION

The Inland Bays, consisting of the Rehoboth, Indian River and Little Assawoman Bays, are some of Delaware's most treasured resources. These unique coastal waters are divided from the ocean by a narrow barrier peninsula and not only attract a wide variety of fish and wildlife, but also thousands of residents and tourists looking to enjoy the beautiful area.

Over time, the watershed has seen a growth in residential, commercial, and industrial development in response to the business and recreational interests of the individuals and communities around the Bays. While the full-time population of these communities tends to be low, there is an influx of people during the summer months, which drives the growth in this area of the State.¹ This development has resulted in an increase in pollution and habitat loss throughout the watershed. The spread of impervious surfaces has also increased the amount of storm water runoff in the area, a major contributor to the pollution entering the Bays. Sadly, the Inland Bays are now filled with murky waters that do not support the fish and wildlife that call the area home.

In 2006, the Delaware Department of Natural Resources and Environmental Control (DNREC) developed and promulgated Total Maximum Daily Loads (TMDLs) for the Inland Bays.² The TMDLs include nutrients and bacteria. In 2008, DNREC developed its Pollution Control Strategy (PCS) for the Inland Bays' TMDLs;³ however, the PCS focuses on the nutrients nitrogen and phosphorus and fails to create strategies for meeting the TMDL established for bacteria. Eight years later, DNREC has continued to ignore the problem of excess bacteria in the Inland Bays.

One source of pollutant runoff that remains unregulated is small municipal storm sewer systems (MS4s). Although small in area and storm water flow, these MS4s can have a great impact on the waters into

¹ For example, in South Bethany the estimated full-time resident population totals 500. However, on weekends in the summer months that estimate increases by approximately 800% to over 4,000 individuals.

² 7 Del. Admin. Code § 7429 (2006).

³ See The Inland Bays Pollution Control Strategy, Delaware Dep't of Natural Res. & Env'tl. Control, Div. of Watershed Stewardship, available at <http://www.dnrec.delaware.gov/swc/wa/Pages/InlandBaysPCS.aspx> (last visited Feb. 16, 2016).

which they discharge. While DNREC has taken steps to regulate urbanized small MS4s,⁴ it has failed to adequately regulate small MS4 pollutant discharge in smaller communities throughout the state and in particular those in the Inland Bays watershed.

In an attempt to coax DNREC to address this watershed-wide problem, the Inland Bays Foundation, Inc. (IBF) focused on a single canal in South Bethany, DE known as the Anchorage Canal and petitioned DNREC Secretary David Small to take action to designate the canal as a regulated small MS4. However, Secretary Small denied the request, and IBF believes that any future petition to Secretary Small to designate the other small MS4s throughout the Inland Bays watershed would be futile.

The Petition, brought pursuant to 5 U.S.C. § 555(b), asks the EPA to employ its authority to regulate these non-urbanized small MS4s in the Inland Bays watershed. Such regulation will ensure that the requirements of the Inland Bays' nutrient and bacteria TMDLs are met and one of Delaware's greatest treasures is protected.

II. PETITIONER

The Inland Bays Foundation, Inc. is a non-profit 501(c)(3) organization with the mission to advocate and promote the restoration of the Inland Bays watershed by conducting public outreach and education, tracking restoration efforts, encouraging scientific inquiry and sponsoring needed research, in order to establish a long-term process for the protection and enhancement of the Inland Bays.

The Inland Bays serve as a valuable recreational asset for residents and visitors, and as a diverse habitat for both terrestrial and aquatic life. The organization's vision is that the Inland Bays and their tributaries will be broadly recognized as a national treasure, and will be restored to good health as measured by established water quality standards. The result will be clear water, free of impacts from toxic contaminants, and with healthy oxygen levels suitable for fishing and swimming.

One of IBF's specific goals is to hold the government accountable to enforce the protections provided for the Inland Bays under the Clean Water Act and Delaware's Coastal Zone Act, Ambient Water Quality Standards, and Antidegradation Implementation Procedures for Surface Waters of the State, and to assure that viable plans are implemented, to restore and maintain the waters and tributaries of the Inland Bays as waters of exceptional recreational and ecological significance.

III. BACKGROUND

The Inland Bays are designated as Exceptional Recreational or Ecological Significance Waters (ERES Waters). A 1998 TMDL study conducted by DNREC evidenced that none of the Bays met the ERES use designation.⁵ Unfortunately, almost two decades later, the Bays remain impaired.

⁴ See Existing and Newly Identified MS4s in Delaware, Delaware Dep't of Natural Res. & Env'tl. Control. A copy of this map is attached as Exhibit A to this Petition.

⁵ Delaware Dep't of Natural Res. & Env'tl. Control, Div. of Water Res., Watershed Assessment Section, Total Maximum Daily Load (TMDL) Analysis For Indian River, Indian River Bay, and Rehoboth Bay Delaware (Dec. 1998) *available at* <http://www.dnrec.state.de.us/DNREC2000/Library/Misc/Unorg/ibxecsum.pdf>.

The lack of regulation for non-urbanized small MS4s permeates throughout the Inland Bays watershed. As but one example of the Bays-wide problem, the South Bethany canals have a continuing problem of high levels of nutrients and bacteria that exceed the Water Quality Standard (WQS) set by the Inland Bays' 2006 TMDL. A 2001 water quality study of the Anchorage Canal Drainage Basin showed that "the volume of stormwater discharged annually results in significant inputs of nitrogen, COD, and enteric Microorganisms to the Anchorage Canal."⁶ Although the focus of the study was on the Anchorage Canal Drainage Basin, the authors understood the data to also represent "other urbanized catchments in the Inland Bays Watershed."⁷

The Bays-wide nature of the problem is evident from existing data. Delaware Regulations set WQS for bacteria levels in tidal portions of the Inland Bays at 104 cfu/100 mL for individual samples, and 35 cfu/100 mL for geometric means.⁸ The University of Delaware's Citizen Monitoring Program has compiled a large data set of samples taken throughout the state of Delaware, including numerous sampling locations within the Inland Bays.⁹ The following chart summarizes Inland Bays sampling data just for the years 2013-2015, with the number of samples taken, number of violations of bacteria WQS, and percentage of samples showing violations of the WQS:¹⁰

⁶ John H. Martin, et al., Volume and Characteristics of Collected Storm Water Discharges Into the Loop Section of the Anchorage Canal, South Bethany, Delaware (Jan. 2001) [hereinafter "Martin Study"]. A copy of this study is attached as Exhibit B to this Petition.

⁷ Id.

⁸ See 7 Del. Admin. Code § 7401, ¶ 7.5.7.1.

⁹ University of Delaware, Bacteria Reports, Citizen Monitoring Program, *available at* <http://citizen-monitoring.udel.edu/reports/Bacteria.shtml>.

¹⁰ The supporting sampling results data sheets are collectively attached as Exhibit C to this Petition.

DATE	# Samples	# violations – Individual	% in violation	# violations – Geo Mean	% in violation
2015					
5/27	19	10	52.6	9	47.4
6/17	18	9	50	11	61.1
7/1	19	9	47.4	11	57.9
7/23	19	8	42.1	12	63.2
8/6	19	9	47.4	11	57.9
8/20	20	15	75	13	65
9/24	21	13	61.9	14	66.7
Totals	135	73	54.1 (ave.)	81	60 (ave.)
2014					
6/4	21	7	33.3	8	38.1
6/19	22	6	27.3	9	40.9
7/3	22	5	22.7	7	31.8
7/17	22	9	40.9	9	40.9
7/31	34/22 ¹¹	23	67.6	10	45.5
8/15	34/22	22	64.7	10	45.5
8/29	34/23	13	38.2	13	56.5
9/24	35/33	20	57.1	21	63.6
Totals	224/187	105	46.9 (ave.)	87	46.5 (ave.)
2013					
6/3	22/19	7	31.8	8	42.1
6/13	22/21	12	54.5	11	52.4
6/26	22/21	9	40.9	11	52.4
7/18	25/21	10	40	13	41.9
7/31	25/24	10	40	15	62.5
8/22	26/24	9	34.6	14	58.3
9/19	27/25	10	37	16	64
11/5	27/25	12	44.4	16	64
Totals	196/180	79	40.3 (ave.)	104	57.8 (ave.)
GRAND TOTALs	555/502	257	46.3 (ave.)	272	54.2 (ave.)

What this data shows is that, over the last three years, Inland Bays samples exceeded the bacteria WQS approximately 50% of the time. While these numbers are upsetting by themselves, they fail to show even

¹¹ This reflects that the number of individual samples was different from the number of geometric mean determinations (with “insufficient data” listed for some geometric mean calculations).. The first number presents the number of individual samples, the second the geometric mean calculations.

more troubling information— the degree to which these violations are in exceedance of the WQS. For example, in 2015, Brandywine Canal had a sampling value of **17,329 cfu/100 mL**, Guinea Creek in Rehoboth Bay had a sampling value of **15,531 cfu/100 mL**, and the Iron Branch of Indian River had a sampling value of **24,192 cfu/100 mL**.¹² **Over the three year period 2013-2015, 85 of the 257 (or 33%) individual samples showing bacteria levels in excess of the bacteria WQS in the table above were greater than 1000 cfu/100 mL—10 or more times the WQS.** IBF believes that, without the storm water management that can come from regulating small MS4s, the bacteria load in the Inland Bays will not reach the 23% reduction required under the TMDL.¹³ It is also unclear that, with sampling readings like these, the water quality of the Inland Bays will not degrade further.

IBF attempted to resolve the excess storm water pollution discharging into the South Bethany Anchorage Canal Drainage Basin as a first step in addressing the problem seen throughout the watershed. On September 9, 2015, the Foundation petitioned DNREC Secretary Small to designate the stormwater discharge into the Anchorage Canal (which drains into the Little Assawoman Bay) as a regulated small MS4. However, IBF's petition was rejected by the Secretary.¹⁴ The Secretary cited voluntary compliance efforts to address storm water runoff to the Anchorage Canal as the main reason for denying IBF's request. According to the Secretary, since they began in 2011, these voluntary compliance efforts have made progress to reduce nutrient levels in the canal.

IBF believes the Secretary's rejection of its petition was unwarranted for several reasons. First, the voluntary efforts that the Secretary cites do not meet the pollution prevention requirements for the Inland Bays' TMDLs in that: (a) the voluntary efforts, although citing dissolved oxygen and bacteria as being at unhealthy levels in the Little Assawoman Bay, only address nitrogen and phosphorus levels.¹⁵ There is no compliance action being taken to reach the TMDL requirements for bacteria in the Anchorage Canal; (b) the voluntary efforts will only reduce nitrogen and phosphorus loads by 40% of what is needed under the TMDL for those nutrients;¹⁶ and (c) there is no legal basis for refusing to regulate small MS4s based on voluntary compliance efforts. The work being done, although commendable, is not enough to reach the pollutant reductions for the Inland Bays.

Second, the 2001 study of the pollutant loading into the Anchorage Canal concluded that there were only two ways to reduce pollutant loading: (1) Develop a storm water capture and treatment system; or (2) Redirect the storm water directly to the ocean.¹⁷ Neither of these options are part of the voluntary efforts that the Secretary cites. Therefore, it can be presumed that these voluntary efforts to reduce the nutrient discharge levels will be insufficient.

If these types of voluntary compliance efforts are used throughout the watershed instead of legally enforceable pollution controls, it will be impossible for the Inland Bays to be restored. IBF is glad to see the surrounding towns and state agencies coming together to make voluntary strides towards protecting

¹² Bacteria Reports, *supra* note 9; See attached Exhibit C.

¹³ 7 Del. Admin. Code § 7429-2.0 (2006).

¹⁴ Letter from David S. Small, Secretary, Delaware Dep't of Natural Res. & Env'tl. Control to Doug Parham, President, Inland Bays Foundation (Sept. 28, 2015). A copy of the Secretary's Letter is attached to this Petition as Exhibit D.

¹⁵ Delaware Center for the Inland Bays, Conceptual Pollution and Stormwater Control Strategy for the Anchorage Canal Drainage Area, 2 (June 2010). A copy of this document is attached to this Petition as Exhibit E.

¹⁶ Id.

¹⁷ Martin Study, *supra* note 6.

the Inland Bays; however, their work falls short of what is needed and what is required to bring the nutrient and bacteria levels down to the required waste load allocations under the TMDLs.

Unfortunately, the Anchorage Canal is not the only discharge point in the Inland Bays watershed that exceeds the water quality standards for bacteria. According to the data collected by the University of Delaware's Citizen Monitoring Program, there are at least 17 monitoring sites in the Inland Bays that have demonstrated consistent exceedances of the water quality standards for bacteria.¹⁸ That number represents 56% of the total University of Delaware monitoring sites in the Inland Bays watershed.¹⁹ The problems seen in the Anchorage Canal are symptomatic of a greater problem occurring in all of the canals in South Bethany and throughout the Inland Bays Watershed.

It is with this information that IBF requests the EPA to designate non-urbanized small MS4s in the Inland Bays watershed as regulated small MS4s in order to ensure that the TMDLs for the Inland Bays are met.

IV. LEGAL FRAMEWORK

A. DNREC's Duty To Designate Small MS4s

Under the Clean Water Act, municipal storm sewer systems are regulated by the National Pollutant Discharge Elimination System (NPDES) program. Unlike all large and medium MS4s, only a portion of small MS4s are automatically regulated under the Act.²⁰ All other small MS4 designations are left up to the discretion of the permitting authority.²¹

Pursuant to 40 C.F.R. § 122.32(a)(1), if a small MS4 is located in an urbanized area, defined by the most recent Decennial Census by the Bureau of the Census, it is regulated under the NPDES program and must obtain a pollutant discharge permit. If a municipal storm sewer discharge is not in an urbanized area, it may be designated by DNREC as a regulated small MS4 pursuant to §§ 123.35(b)(3) and (b)(4), or § 122.26(f).

As Delaware's NPDES permitting authority, DNREC is required by the federal regulations to "develop a process, as well as criteria, to designate small MS4s other than those described in § 122.32(a)(1) of this chapter, as regulated small MS4s to be covered under the NPDES storm water discharge control program."²² In particular, the regulations require DNREC to do the following:

(1)(i) Develop criteria to evaluate whether a storm water discharge results in or has the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts. (ii) Guidance: For determining other significant water quality impacts, EPA recommends a balanced consideration of the following designation criteria on a watershed or other local basis: discharge to sensitive waters, high growth or growth potential, high population density, contiguity to an urbanized area,

¹⁸ See Bacteria Reports, *supra* note 9. These monitoring locations include Wagamon's Pond, Old Mill Creek, and Prime Hook Creek in the Broadkill River, Guinea Creek, Herring Creek, and Love Creek in Rehobeth Bay, Iron Branch and White Creek in the Indian River, and Upper Dirickson Creek in Assawoman Bay. Id.

¹⁹ Id.

²⁰ See 40 C.F.R. § 122.26(a)(3) (2015); 40 C.F.R. § 122.32(a)(1) (1999).

²¹ 40 C.F.R. § 122.32(a)(2) (1999).

²² 40 C.F.R. § 123.35(b)(3) (1999).

significant contributor of pollutants to waters of the United States, and ineffective protection of water quality by other programs;

(2) Apply such criteria, at a minimum, to any small MS4 located outside of an urbanized area serving a jurisdiction with a population density of at least 1,000 people per square mile and a population of at least 10,000;

(3) Designate any small MS4 that meets your criteria by December 9, 2002. You may wait until December 8, 2004 to apply the designation criteria on a watershed basis if you have developed a comprehensive watershed plan. You may apply these criteria to make additional designations at any time, as appropriate; and

(4) Designate any small MS4 that contributes substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer that is regulated by the NPDES storm water program.²³

The Secretary of DNREC may also designate small MS4s if he “determines that storm water controls are needed for the discharge based on wasteload allocations that are part of “total maximum daily loads” (TMDLs) that address the pollutant(s) of concern,”²⁴ or when he “determines that the discharge . . . contributes to a violation of the water quality standard or is a significant contributors of pollutants to water of the United States.”²⁵

Additionally, if the permitting authority does not take action on its own,” [a]ny person may petition the Director for the designation of a . . . small municipal separate storm sewer system as defined by paragraph . . . (b)(16) of this section.”²⁶

B. EPA’s Authority to Designate Small MS4s.

The EPA retains residual designation authority when discharges have not been regulated by the authorized states. Pursuant to § 123.35(b), “EPA may make designations under this section if a State or Tribe fails to comply with the requirements listed in this paragraph.” Section 123.35(b) requires DNREC to develop and apply a process and criteria to designate small MS4s. If DNREC does not develop a process or criteria, EPA may designate small MS4s in the state’s place.

EPA may also designate small MS4s when, “[t]he Director, or in States with approved NPDES programs either the Director or the EPA Regional Administrator, determines that storm water controls are needed for the discharge based on wasteload allocations that are part of “total maximum daily loads” (TMDLs) that address the pollutant(s) of concern.”²⁷ Additionally, the Regional Administrator may make such designation when he or she “determines that the discharge . . . contributes to a violation of the water quality standard or is a significant contributors of pollutants to water of the United States.”²⁸

²³ 40 C.F.R. § 123.35(b) (1999).

²⁴ 40 C.F.R. § 122.26(a)(9)(i)(C) (2015).

²⁵ 40 C.F.R. § 122.26(a)(9)(i)(D) (2015).

²⁶ 40 C.F.R. § 122.26(f) (2015).

²⁷ 40 C.F.R. § 122.26(a)(9)(i)(C) (2015).

²⁸ 40 C.F.R. § 122.26(a)(9)(i)(D) (2015).

DNREC has failed to comply with § 123.35(b) of the federal storm water regulations and, therefore, the Regional Administrator of the EPA may make small MS4 designations. Additionally, because storm water controls are needed to meet the TMDL for the Inland Bays, the Regional Administrator should designate these canals as small MS4s to be regulated under the Clean Water Act.

V. PETITIONER'S ARGUMENTS'

Due to DNREC's failure to designate and regulate non-urbanized small MS4s discharging into the Inland Bays, IBF petitions the EPA to have it designate the small MS4s that continue to pollute the Inland Bays and violate the Bays' TMDLs as regulated small MS4s.

A. DNREC Has Failed To Develop a Process and Criteria for the Designation of Small MS4s and Has Failed to Apply Such Criteria in Violation of the Clean Water Act.

Pursuant to 40 C.F.R. § 123.35(b), the Secretary "*must* develop a process, as well as criteria, to designate small MS4s other than those described in § 122.32(a)(1) of this chapter, as regulated small MS4s to be covered under the NPDES storm water discharge control program" (emphasis added).²⁹ There is no evidence that DNREC has met any of the requirements under § 123.35(b). DNREC has failed to develop a process for designating small MS4s. There is no systematic approach for reviewing and regulating non-urbanized small MS4s. Furthermore, DNREC has failed to develop criteria to determine whether a small MS4s' discharge "results in or has the potential to result in the exceedances of water quality standards."³⁰ After a thorough investigation of the Delaware regulations and DNREC's website, IBF has found no evidence of any process or criteria developed by the Secretary to designate small MS4s.

Section 123.35(b) also requires DNREC to apply the developed criteria to small MS4s. Without a process or criteria to designate small MS4s (which are violations of the federal regulations in themselves) the Secretary has no standard evaluation method for designation. There is simply no way for the Secretary to apply a process and criteria that do not exist. As seen in the Secretary's response to IBF's petition, the lack of a process and criteria results in the Secretary making arbitrary designation determinations.

B. DNREC is Failing to Administer the Small MS4 Portion of the NPDES Permit Program Pursuant to Clean Water Act Regulations.

The Secretary of DNREC has failed to administer the non-point source NPDES permit program pursuant to what the Clean Water Act regulations require. First, the Secretary has only designated those small MS4s that are located within urbanized areas. Second, the Secretary has arbitrarily rejected designation of small MS4s based on current voluntary compliance efforts conducted by local towns and state agencies and organizations.

²⁹ 40 C.F.R. § 123.35(b)(1) (1999).

³⁰ Id.

a. DNREC has failed to designate any non-urbanized area small MS4s in violation of the Clean Water Act.

The Secretary only applies part one of the two-part definition of regulated small MS4s, when it fails to regulate non-urbanized small MS4s. According to the regulations, a small MS4 is regulated if:

- (1) Your small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. (If your small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated); or
- (2) You are designated by the NPDES permitting authority, including where the designation is pursuant to §§ 123.35(b)(3) and (b)(4) of this chapter, or is based upon a petition under § 122.26(f).³¹

It appears that DNREC currently only regulates small MS4s that are located within urbanized areas. As Exhibit A shows, the only MS4s regulated in Delaware are in urbanized areas. It appears as if DNREC only regulates MS4s that fall under part one of § 122.32(a). However, DNREC also has a mandated requirement to regulate under part two of § 122.32(a). As set forth in 40 C.F.R. § 123.35(b), DNREC must develop a process and criteria for designating small MS4s and then review all small MS4s pursuant to that process and criteria. Because DNREC has not developed the process or criteria required by § 123.35(b), it not only violates the requirements of that section, but it also guarantees that DNREC will only designate MS4s in urbanized area. That does not comply with the regulatory requirements and is not the comprehensive system of regulation contemplated by the regulations.

The Secretary misapplies the regulations when he chooses to only regulate small MS4s in urbanized areas and is therefore failing to properly administer the NPDES permit program under the Clean Water Act.

b. DNREC has arbitrarily rejected a petition for designation of a small MS4 with justifications outside of Clean Water Act regulations.

In the Secretary's response to IBF's petition for designation of the Anchorage Canal as a regulated small MS4, the Secretary rejected our request on the basis that voluntary compliance efforts on the part of the South Bethany and local organizations make regulation unnecessary. However, voluntary compliance efforts are not a reasonable explanation for why a small MS4 should not be regulated.

The Clean Water Act regulations give guidance as to what criteria should be considered for small MS4 designation:

“Guidance: For determining other significant water quality impacts, EPA recommends a balanced consideration of the following designation criteria on a watershed or other local basis: discharge to sensitive waters, high growth or growth potential, high population density, contiguity to an urbanized area, significant contributor of pollutants to waters of the United States, and ineffective protection of water quality by other programs.”³²

³¹ 40 C.F.R. § 122.32(a) (1999).

³² 40 C.F.R. § 123.35(b)(1)(ii) (1999).

In this guidance, there is no mention of voluntary efforts to comply with WQS or TMDLs as part of the designation process. Voluntary efforts cannot be enforced and these efforts can cease at any time. The Secretary is required to use criteria developed by DNREC to make the determination of whether to designate a small MS4. Without such criteria, it is impossible to know what the standard is for designation. This arbitrary refusal to regulate is another misapplication of the Clean Water Act regulations for MS4s. It is imperative to the health of the Inland Bays that the Secretary appropriately designate small MS4s using approved criteria developed pursuant to § 122.35 of the Clean Water Act.

CONCLUSION

Due to DNREC's failure to develop a process and criteria for reviewing small MS4s and its refusal to regulate non-urbanized small MS4s, all in violation of 40 C.F.R. § 123.35, and the Secretary's rejection of a petition to regulate a small MS4 discharging into the Inland Bays, IBF petitions the EPA Regional Director to take the following action:

1. Designate the non-urbanized small MS4s discharging into the Inland Bays watershed as regulated small MS4s pursuant to § 123.35(a).
2. Require DNREC to comply with the NPDES non-point source regulations by developing a process and criteria for designating non-urbanized small MS4s as regulated small MS4s and apply those criteria to all small MS4s discharging into the Inland Bays.

IBF believes that these actions are the only way to ensure the future protection and improvement of the Inland Bays.

Sincerely,

Nancy Cabrera Santos
President, Inland Bays Foundation, Inc.

Attachments (5)

Existing and Newly Identified MS4s in Delaware, Delaware Dep't of Natural Res. & Env'tl. Control (Exhibit A).

John H. Martin, et al., Volume and Characteristics of Collected Storm Water Discharges Into the Loop Section of the Anchorage Canal, South Bethany, Delaware (Jan. 2001) (Exhibit B).

University of Delaware, Bacteria Reports, Citizen Monitoring Program (2013-2015), *available at* <http://citizen-monitoring.udel.edu/reports/Bacteria.shtml> (Exhibit C).

Letter from David S. Small, Secretary, Delaware Dep't of Natural Res. & Env'tl. Control to Doug Parham, President, Inland Bays Foundation (Sept. 28, 2015) (Exhibit D).

Delaware Center for the Inland Bays, Conceptual Pollution and Stormwater Control Strategy for the Anchorage Canal Drainage Area (June 2010) (Exhibit E).