



Alabama Department of Environmental Management  
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1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463  
Montgomery, Alabama 36130-1463  
(334) 271-7700 ■ FAX (334) 271-7950

October 19, 2015

Mr. Thomas H. Miller  
Stormwater Administrator  
City of Birmingham  
710 North 20<sup>th</sup> Street  
Room 220, City Hall  
Birmingham, AL 35203

**Re: ADEM's Response to Public Comments on the Draft Village Creek Pathogens TMDL**

Dear Mr. Miller:

The Alabama Department of Environmental Management appreciates your interest and support in Alabama's TMDL Program. As part of the public participation process, the Department has completed its review of all comments received on the Draft Village Creek Pathogens TMDL that was placed on public notice for the period of July 10, 2015, through August 10, 2015. Subsequent to our review, the Department assembled all public comments received during the 31-day public notice period and provided a specific response to each comment accordingly.

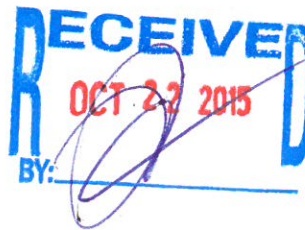
As part of our commitment to those interested stakeholders who provided comments, we have attached for your review and record a summary of all public comments received and their respective responses from our agency. In addition, the Final TMDL was approved by EPA Region 4 on October 5, 2015, and is available on ADEM's website at [www.adem.state.al.us](http://www.adem.state.al.us). If you have any questions or concerns regarding this matter, please do not hesitate to contact me at (334) 271-7826 or email at [kminton@adem.state.al.us](mailto:kminton@adem.state.al.us).

Sincerely,

Kimberly M. Minton, Chief  
Technical Support Section  
Water Quality Branch  
Water Division

KMM/jes

Enclosure



**Response to Public Comments**  
**Concerning Alabama's**  
**July 10, 2015**  
**Draft**  
**Total Maximum Daily Loads**  
**(TMDLs)**

*August 21, 2015*





## Mobile Bay Pathogens TMDL

No comments received.

## Village Creek Pathogens TMDL

### City of Birmingham Comments

**Comment 1:** City data can confirm that summer *E.coli.* levels are greater than winter levels and that total *E.coli.* levels have approached the maximum concentration allowable by Rule on one occasion since 2013. However, City geometric mean levels of *E.coli.* are considerably lower by nearly half of ADEM's calculated levels at VLGJ-2 and nearly 40% lower than allowed by Rule.

**Response 1:** Department-collected data indicates that a pathogen impairment exists for Village Creek (Assessment Unit IDs AL03160111-0408-102 and AL03160111-0408-103). As a result, a TMDL to address the impairment was developed.

The Department does consider data collected by other entities in addition to Department-collected data if it is submitted in an electronic spreadsheet format and is consistent with the guidelines outlined in the Department's current Water Quality Assessment and Listing Methodology, section 4.8.8:

*Use of Data Collected by Others: Data collected by other agencies, industry or industry groups, neighboring states, and watershed groups will be considered and evaluated provided the data meet the minimum data requirements specified for each designated use and comply with the quality control and quality assurance requirements discussed in Section 4.9. Data submitted by third parties for consideration should include methods used to collect the data, including a study plan or SOP, and documentation that the data were (or were not) collected consistent with the requirements presented in this methodology.*

Also, based on the additional information provided regarding the City's data, it should be noted that the requirement for the calculation of a geometric mean according to ADEM Admin. Code r. 335-6-10-.09(6)(e)3 is "no less than five samples collected at a given station over a 30-day period at intervals not less than 24 hrs."

**Comment 2:** From TMDL Section 4.2, please provide further discussion how flow measurements were obtained, collected and reported, particularly at VLGJ-2.

**Response 2:** Refer to the attached document, *Stream Flow Measurement by ADEM Abbreviated Stream Velocity Measurement: SOP #2040, Rev. 5.0*, for further information regarding how the flow measurements were collected.

For station VLGJ-2, flows were measured upstream of the Vanderbilt Road bridge but downstream of the confluence of Avondale Lake. The creek bottom did have a varying substrate across the cross section, but the same personnel collected flows each sampling visit and ensured that the cross section location did not vary. All flow conditions that were encountered were listed as normal conditions.

**Comment 3:** In light of the City's concerns for the use of VLGJ-2 to calculate the allowable load and required reduction of *E.coli.* from nonpoint sources, please elaborate why ADEM believes this particular location is most appropriate to address nonpoint source loads from the city of Birmingham's municipal



separate storm sewer systems (MS4) and a required 26% reduction when it is also collocated with a potential sanitary sewer point source.

**Response 3:** VLGJ-2 was chosen solely based on the fact that it yielded the highest percent reduction for *E. coli* loads. In accordance with routine ADEM and EPA TMDL development, load reductions for this TMDL were developed using the highest exceedance under the most critical conditions. This conservative approach has been found to be the most protective of water quality standards. The rationale supporting this approach is that if the impaired segment is brought into compliance at the point with the highest exceedance during the most critical period, then the entire stream length will meet or exceed water quality standards year round.

**Comment 4:** Please provide useful nonpoint source BMP suggestions to potentially achieve a reduction in *E.coli*. and compliance with the NPDES Phase 1 Permit in light of the fact that ADEM does not consider the source as being from illicit discharges but rather from seasonal wash-off of urban lands and from natural wildlife background sources.

**Response 4:** The purpose of a TMDL is to establish a pollution budget for an impaired waterbody which will result in compliance with applicable water quality standards. Implementation of the TMDL, however, will be addressed through NPDES permitting, nonpoint source initiatives, and other regulatory and non-regulatory measures.

**Comment 5:** Please consider establishing a waste load allocation or percent reduction for sanitary sewer overflows, which may also be contributing to the *E.coli*. problems in Village Creek.

**Response 5:** According to state and federal rules and regulations, sanitary sewer overflows (SSOs) are considered unpermitted discharges and are subject to enforcement. In other words, SSOs should be contributing 0 col/day of *E. coli* to Village Creek. Providing an *E.coli* allocation for SSOs in the TMDL would imply that collection systems are allowed to have SSOs and contribute pathogens to Village Creek, which is against state and federal rules and regulations.

