



Parties to Develop Replacement Trash TMDL for Anacostia River August 2018

The U.S. District Court for the District of Columbia sided with environmentalists in a lawsuit challenging EPA's approval of the District of Columbia and Maryland's TMDL for trash pollution in the Anacostia River. The court ruled that the TMDL inappropriately sets a *minimum* amount of trash that must be removed from the river, as opposed to a *maximum* amount of trash that could enter the river before it failed to meet its water quality standards, and that EPA inappropriately approved the plan. Approval of the TMDL was vacated and remanded back to EPA.

EPA's 2010 approval of the Anacostia River trash TMDL was the first trash cleanup plan the agency approved outside of California. But instead of using a "zero pounds" of trash standard, the plan used a "removal-based" approach, setting the minimum amount of trash that would have to be removed from the river, or prevented from entering it, to meet water quality standards. The Natural Resources Defense Council argued this approach is inconsistent with the plain language of the CWA, and the Court agreed. The Court also rejected EPA's arguments that its regulations allow TMDLs to be expressed in terms of either mass per time, toxicity or other appropriate measure.

A Status Report recently filed with the court notes that MDE and the District of Columbia Department of Energy and Environment will work together with EPA to develop a replacement TMDL for the Anacostia River. EPA anticipates soliciting data about trash in the watershed later this summer and will also send letters requesting relevant information to stakeholders who participated in developing the original TMDL and/or submitted comments.