

Ohio EPA Response to Comments
Draft Biological and Water Quality Report – Whitewater River
December 2020

The Draft Whitewater River Biological and Water Quality Report was made available for stakeholder review and comment from October 26, 2020 to November 25, 2020. The Agency received comments from Midwest Biodiversity Institute (MBI).

Overall/General Comments

Comment 1: Figure 1 (page 8):

The pie chart showing the proportion of sites in full and non-attainment of their aquatic life use in 2017-19 should attempt to distinguish between EWH, CWH, and WWH attainment. This could be done by adding a different colored “slices” to the pie chart and it would serve to highlight the ability of the Ohio EPA program to distinguish more than a one-size-fits-all attainment threshold.

Response 1: Ohio EPA appreciates input about how to better display attainment information. The pie chart has been expanded to show the different aquatic life uses for both fully and partially attaining sites. There were no survey sampling locations that were in non-attainment of their ALU.

Comment 2: Table 27 (pages 82-83):

Thank you for restoring this important table to this report and for also listing all of the streams regardless of their being sampled or not. This helps the public to understand how many streams are still assigned default designations and their proximity to streams where the verified use designation was changed with recent data. We continue to recommend that this table appear in the beginning of these reports to make them more visible.

There are seven streams with default WWH designations listed in Table 27. Of these, one, Sand Run, is listed on Table 1 (see below) as being recommended for WWH thus verifying the default WWH listed in the current WQS. There is a Dry Run listed in Table 27 as a tributary to the East Fork Whitewater River at RM 42.7 which is in the upper watershed, but the level of detail about the location and confluence suggests that this site may have been sampled at some point. Some of the default WWH streams occur close by to streams that are being recommended for EWH and CWH, which raises the possibility that if sufficient data had been collected the default WWH designations might well be found to be inappropriate. These streams should be flagged in case a permitting or other regulatory application arises such that the default WWH designation can be accurately addressed before a regulatory action takes place.

Response 2: The addition of the river mile confluence was added into the Beneficial Use table while compiling this report to help elucidate portions of the East Fork drainage network. This river mile confluence is not yet reflected in OAC 3745-1-21, Table 21-1.

There are indeed other tributaries in Ohio's portion of the Whitewater River watershed that have not yet been assessed or had their beneficial uses verified. However, 8 of 13 (61%) previously unverified streams were able to have aquatic life uses confirmed based on current survey results. Ohio EPA was also able to recommend beneficial uses for 4 previously undesignated streams based on the results of this survey – two of which were recommended EWH or CWH.

Given that this was the first intensive survey for this area, Ohio EPA placed an emphasis on ensuring as many streams were assessed as possible, including those that had not previously been sampled. The Whitewater survey effort represented one of five major basin surveys during the summer of 2017, including the Cuyahoga River mainstem, the upper and lower Tuscarawas River basins, the Sugar Creek basin, and efforts in the Swan, Toussaint, and other lower Erie/Maumee county tributaries. There are practical constraints when allocating limited resources to support efforts all these major survey areas.

Of the remaining 7 unassessed and unverified streams referenced in the above comment, Sand Run was assessed by MBI in 2013; based on the results submitted to the agency, Ohio EPA decided not to include Sand Run in our 2017 efforts. Ohio EPA is considering those data from the 2013 MBI survey results to verify the WWH use for Sand Run. However, those changes were not reflected in the beneficial use table within this document because it only reflects data and recommendations based on the current survey.

Phillips Creek is a small tributary (3.1 mi²) to upper Dry Fork, upstream from Sours (6.5 mi²) and Sater Run (3.3 mi²). Collectively, these tributaries effectively convene to form the headwater of Dry Fork. Both Sours Run (undesignated) and Sater Run (WWH unverified) were evaluated during the survey. Results from the survey supported an EWH recommendation for the undesignated Sours Run, while confirming the WWH was more appropriate for the smaller Sater Run. Despite not being sampled, Phillips Run was also considered for inclusion in the survey during the study planning process. However, it is the smallest of the three tributaries and drains the least amount of forested area than either Sours or Sater Run.

Of the other four other unverified tributaries, attempts to sample Elkhorn Creek were made, but no landowner could be contacted to grant permission to access the stream. Similarly, another larger tributary to East Fork at RM 47.48 (undesignated) was considered for inclusion, but no landowner could be contacted for permission to sample. Horn Ditch and Mud Creek are small tributaries to Elkhorn Creek near the Indiana state line; they collectively drain about 0.7 mi² in Ohio before flowing into Indiana.

Joqueway Creek (unverified WWH) was also considered for inclusion in the survey. However, it is a relatively small stream (1.7 mi²) with much of its flow length denuded of

riparian vegetation and historically channelized. The presence of a large pond near its confluence with Little Creek may have also influenced water quality and biological assemblages in the small reach of Joqueway Creek able to be sampled. Welker Lateral (undesignated) is a similar-sized, nearby tributary to East Fork that is a modified reference stream. It was sampled during the survey and is being recommended WWH.

Dry Run at State Route 121 drains 0.45 mi², well into the primary headwater stream range and below the typical stream size that is sampled during these intensive stream surveys. There are also other similar-sized tributaries (<0.5 mi²) in this portion of the East Fork watershed that are both unnamed and undesignated.

Given the considerations discussed above, Ohio EPA feels that sufficient data had been collected during the survey and sufficient consideration had been given to those streams that were ultimately not sampled. Ohio EPA intends to assess as many streams as possible during these integrated watershed surveys and will consider these areas while planning future monitoring efforts in these areas.

Though this survey occurred before the public comment period for quality assurance project plans (QAPPs) or study plans, Ohio EPA implores the public to provide input during the public comment period for the planning process.

Comment 3: Weight of Evidence Nutrient Assessment (pages 20-24):

This is an excellent analysis and the graphical presentation in Figure 8 is superb. We are strong supporters of the concept of the combined nutrient assessment procedures developed by the agency.

Response 3: Thank you for the positive feedback.

Comment 4: Page 24:

There appears to be a text formatting glitch at the top of this page as well as in the header throughout the report.

Response 4: Ohio EPA has made this correction.

Comment 5: Mapping and Taxa/Species Analyses (pages 33-61):

The discussion of species/taxa level results is well done and especially the analysis of thermal regime influences in Figures 17 and 20-22. It represents a high level of analytical capacity and excellent use and integration of geological knowledge and information. It seems to have been incorporated in to the use attainability analysis portions of the TSD.

Response 5: Thank you for the positive feedback.

Comment 6: The aforementioned biological and water quality study conducted in 2013 in the lower (southern) portion of the Ohio EPA 2017 Whitewater River study area by MSDGC/MBI (MBI 2014) qualifies as Level 3 data under the Ohio Credible Data Law and Regulations. A full “TSD style” report was completed and submitted to SWDO on June 30, 2014. The data was also submitted to the Credible Data Program per the terms of approval of the Level 3 Project Study Plan in 2013. As a result the agency received the data necessary to use it for Level 3 Credible Data purposes and in a timely manner. Unfortunately, there was no use of this data to supplement and close spatial gaps left by the Ohio EPA 2017 survey design nor was the study even cited. The latter should have been done at a minimum. This also calls into question the level of coordination, or lack thereof that is actually taking place within the Division of Surface Water. MSDGC went to considerable expense to comply with the provisions of the CSO permit and arguably went beyond the “minimum” required to provide a quality product that meets Level 3 specifications. While this work will have future benefits to MSDGC, that value is diminished if the WQS use designation recommendations are ignored as they seem to have been with several other MSDGC Level 3 assessments in other watersheds in their service area since 2011. While we realize that retrofitting the 2017 report with the 2013 MSDGC/MBI data is unlikely, an acknowledgement of that study and directing readers to that report and data should be done at a minimum. More importantly the agency needs to act on the WQS use designation recommendations of this and other Level 3 bioassessments in a timely manner.

Response 6: The lack of reference to the 2013 MBI report was an oversight. Ohio EPA was fully aware of the data collected by MBI and the ensuing report. As in the example of Sand Run, this study was certainly taken into consideration during the study planning process. The results are also being considered and are planning to be used as our Rules and Standards section works to revise these beneficial use rules (as discussed in the below comment by MBI).

Ohio EPA wants to ensure that all stakeholders are fully aware of all sampling efforts in various watersheds that had been evaluated whether those efforts are public or private. Based on this comment, Ohio EPA has decided to add a new sub-section to our TSD reports that will inform readers of other external watershed studies that have occurred and direct readers to those reports/studies. Moving forward, Ohio EPA will try to ensure that all relevant studies are included in TSD reports.

Comment 7: Comparison of the 2013 and 2017 Use Recommendations and Attainment Status
Table 1 is a modification of the aquatic life use attainment table from the 2014 report and is reduced here to the portion of the larger 2014 MSDGC study area in the lower Great Miami River basin. In common sites are yellow highlighted under the Site ID column in Table 1. Out of 23 locations sampled by MSDGC/MBI in 2013, only nine (9) overlap with the 2017 Ohio EPA sites. For the most part the aquatic life use recommendations and attainment status determinations are in agreement. Important exceptions, however, are noted as follows:

- Howard Creek is recommended for EWH based on the full attainment of the biocriteria in 2017, which is entirely appropriate. The 2013 survey verified the former WWH use and observed full attainment status.

- Sand Run is listed in Table 21 as a default WWH designation. This stream was sampled in 2013 and was determined to have WWH potential and the use attainment status was partial. This should be listed as a verified use in the next revisions of the WQS for this basin.
- There were 14 sites sampled in 2013 that were not assessed by Ohio EPA in 2017 or any year prior to our knowledge. Had there been historical data that would have been incorporated as a matter of routine in the MSDGC/MBI report (see Table 1).
- Of the 14 sites that were unique to the 2013 MSDGC/MBI assessment, four (4) were recommended to be designated as WWH and all appear to be unlisted in the WQS although one had a name (Fox Run). These recommendations should also be part of the next WQS use designation rulemaking for the Great Miami River basin.
- Seven of the sites that are unique to the MSDGC/MBI survey were determined to be Primary Headwater Habitat, five as PHW Class 2 and two as PHW Class 3A. While we are not expecting the agency to act on the PHWH recommendations, this study illustrates how to properly distinguish between WWH and PHWH as opposed to the current over-reliance on rules-of-thumb.

Response 7: Ohio EPA intends to review and include those streams recommended WWH by the 2013 MBI survey in the next wave of revisions for this rule.

End of Response to Comments