

BRIEFING PAPER

REMOVAL OF THE RESTRICTIONS ON DREDGING ACTIVITIES BENEFICIAL USE IMPAIRMENT FROM THE DETROIT RIVER AREA OF CONCERN

Request

Based upon Remedial Action Plan (RAP) documentation review, consultation with agency staff, and Technical Committee review, the Michigan Department of Environmental Quality (MDEQ), Water Bureau (WB) requests concurrence with its recommendation to remove the Restrictions on Dredging Activities Beneficial Use Impairment (BUI) on the U.S. side of the Detroit River Area of Concern (AOC). This request is being made in accordance with the process and criteria outlined in the *Guidance for Delisting Michigan's Great Lakes Areas of Concern* ([Guidance](#)), (MDEQ, 2008).

Background

The Detroit River is a designated binational Great Lakes AOC. A Great Lakes AOC is a severely degraded geographic area within the Great Lakes Basin. They are defined by the U.S.-Canada [Great Lakes Water Quality Agreement](#) (Annex 2 of the 1987 Protocol) as "geographic areas that fail to meet the general or specific objectives of the agreement where such failure has caused or is likely to cause impairment of beneficial use of the area's ability to support aquatic life." In order for an AOC to qualify for removal of the AOC designation, all impaired beneficial uses within it must be restored and removed.

The physical boundary of the Detroit River AOC is defined as the entire river from Windmill Point at Lake St. Clair to the Detroit River Lighthouse at Lake Erie. To view the Detroit River AOC boundary map, click [here](#).

The Detroit River AOC has 11 BUIs recognized under the U.S.-Canada Great Lakes Water Quality Agreement (Annex 2 of the 1987 Protocol). These BUIs are listed here:

1. Restrictions on Fish and Wildlife Consumption
2. Tainting of Fish and Wildlife Flavor
3. Fish Tumors or Other Deformities
4. Bird or Animal Deformities or Reproductive Problems
5. Degradation of Benthos
6. Restrictions on Dredging Activities
7. Restrictions on Drinking Water Consumption or Taste and Odor Problems
8. Beach Closings
9. Degradation of Aesthetics
10. Degradation of Fish and Wildlife Populations
11. Loss of Fish and Wildlife Habitat

The [1991 Stage 1 Detroit River RAP](#) (Michigan Department of Natural Resources and the Ontario Ministry of the Environment [OMOE], 1991) designates the status of the Restrictions on Dredging Activities BUI as impaired, binationally, within the Detroit River AOC. On the U.S. side of the AOC, this designation was based on the fact that dredge spoils from some locations within the federally-recognized commercial navigational channel were deemed unsuitable for open water disposal due to their levels of metals and PCBs. The Restrictions on Dredging Activities BUI applies only to federally-recognized commercial and recreational navigational channels within an AOC. The Detroit River AOC does not have a federally-recognized recreational navigational channel on the U.S. side.

BRIEFING PAPER
REMOVAL OF THE RESTRICTIONS ON DREDGING ACTIVITIES BENEFICIAL USE
IMPAIRMENT IN THE DETROIT RIVER AREA OF CONCERN
Page 2

The Guidance states that the Restrictions on Dredging Activities BUI will be considered restored when:

- There have been no restrictions on routine commercial or recreational navigational channel dredging by the U.S. Army Corps of Engineers (COE), based on the most recent dredging cycle, such that special handling or use of a confined disposal facility (CDF) is required for dredge spoils due to chemical contamination.

OR, in cases where dredging restrictions exist:

- A comparison of sediment contaminant data from the commercial or recreational navigation channel (at the time of proposed dredging) in the AOC indicates that contaminant levels are not statistically different from other comparable, non-AOC commercial or recreational navigation channels.

Summary of Remedial Actions or Source Controls Implemented That Address the BUI

Since the Restrictions on Dredging BUI was initially designated within the Detroit River AOC, numerous point source and nonpoint source control measures have been implemented within the AOC. These have most certainly played a beneficial role with respect to the status of the Restrictions on Dredging BUI, whether or not these measures were specifically intended to benefit the status of that BUI or bring about its restoration. These measures include stream bed and stream bank restoration projects, Combined Sewer Overflow control improvements, National Pollutant Discharge Elimination System improvements, routine navigational channel dredging, upland source controls associated with brownfield redevelopment, and remediation dredging efforts such as the removal of contaminated sediments within the Black Lagoon in 2004-2005.

Assessment of Restoration

The MDEQ, WB has confirmed that, based on the most recent dredging cycle (2007), routine monitoring of dredge spoils from the federally-recognized commercial navigational channel in the Detroit River AOC by the COE indicates that neither special handling nor use of a CDF is required due to chemical contamination. Dredge spoils from the Detroit River AOC are disposed of in a CDF, but this is a matter of convenience rather than necessity.

The MDEQ, WB then convened a Technical Committee to formally review the restoration status of the Restrictions on Dredging Activities BUI. The Technical Committee comprised Pam Horner, COE; Charlie Bristol and Bob Burns, Detroit River Public Advisory Council; Rose Ellison, Environmental Protection Agency, Great Lakes National Program Office; Ted Briggs, OMOE; and Mike Alexander and Christine Aiello, MDEQ, WB.

The Technical Committee concluded that the Detroit River AOC meets the first tier of Michigan's criteria for demonstrating restoration of the Restrictions on Dredging Activities BUI, and that this BUI has been restored on the U.S. side of the AOC.

Recommendation

MDEQ, WB requests concurrence with its recommendation to remove the Restrictions on Dredging Activities BUI on the U.S. side of the Detroit River AOC.

BRIEFING PAPER
REMOVAL OF THE RESTRICTIONS ON DREDGING ACTIVITIES BENEFICIAL USE
IMPAIRMENT IN THE DETROIT RIVER AREA OF CONCERN
Page 3

Deadline for Public Comment

Written comments are being accepted on this proposed removal of the Beneficial Use Impairment, *Restrictions on Dredging Activities*, in the Detroit River Area of Concern. Submit written comments to Christine Aiello, Michigan Department of Environmental Quality, Water Bureau, PO Box 30273, Lansing, Michigan, 48909-7773, by midnight on September 30, 2009. If requested in writing by September 30, 2009, a public hearing may be scheduled. All comments received by September 30, 2009 will be considered by the decision-maker prior to final action. The decision-maker is William Creal, Water Bureau Supervisor. Information Contact: **Christine Aiello**, Water Bureau, 517-241-7504, aiello@michigan.gov.

Prepared by: Christine Aiello, Senior Environmental Quality Analyst
Aquatic Nuisance Control and Remedial Action Unit
Surface Water Assessment Section
Water Bureau
Michigan Department of Environmental Quality
July 29, 2009