

**DRAFT BRIEFING PAPER
REMOVAL OF THE RESTRICTIONS ON DREDGING ACTIVITIES
BENEFICIAL USE IMPAIRMENT
IN THE ST. CLAIR 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), Area of Concern (AOC) Program, requests concurrence with its recommendation to remove the Restrictions on Dredging Activities Beneficial Use Impairment (BUI) from United States (U.S.) waters of the St. Clair River 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 St. Clair 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 St. Clair River AOC is defined as the entire river from the Blue Water Bridge to the southern tip of Seaway Island, west to St. John's Marsh, and east to include the north shore of Mitchell's Bay on Lake St. Clair in Ontario. Anchor Bay of Lake St. Clair is not included within the AOC. To view the St. Clair River AOC boundary map, click [here](#).

The St. Clair River AOC has 10 BUIs, as identified in the 1991 Stage 1 St. Clair River RAP (Ontario Ministry of the Environment [OMOE] and the Michigan Department of Natural Resources [MDNR], 1991). These BUIs are listed here:

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

The [1991 Stage 1 St. Clair River RAP](#) (OMOE and MDNR, 1995) designated the status of the Restrictions on Dredging Activities BUI as impaired, binationally, within the St. Clair River AOC. In U.S. waters, this designation was based primarily on the presence of oil and grease, total Kjeldahl nitrogen and trace metals in sediments from Michigan locations (contamination which, it should be noted, did not necessitate restrictions on dredging or disposal of dredged material).

The Restrictions on Dredging Activities BUI applies only to federally-recognized commercial and recreational navigational channels within an AOC; removal of this BUI should not be interpreted to mean that there are no other problems relating to sediments outside of federally-recognized

navigational channels within an AOC. The St. Clair River AOC does not have a federally-recognized recreational navigational channel in U.S. waters.

On March 28, 2007, the St. Clair River Binational Public Advisory Council (BPAC) voted to accept the criteria for nonhabitat BUI assessment and removal presented in the Guidance.

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 Activities BUI was initially designated for the St. Clair 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 Activities 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, changes in industrial processes, National Pollutant Discharge Elimination System improvements, routine navigational channel dredging, upland source controls associated with brownfield redevelopment, and spill prevention initiatives.

Assessment of Restoration

According to the COE, routine monitoring undertaken during the most recent dredging cycle (2004) of dredge spoils from the federally-recognized commercial navigational channel in the St. Clair River AOC indicates that neither special handling nor use of a CDF is required due to chemical contamination. At present, dredge spoils from the St. Clair 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 and Martin Kuhn, COE; Janice Littlefield, St. Clair 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 St. Clair 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, AOC Program requests concurrence with its recommendation to remove the Restrictions on Dredging Activities BUI from U.S. waters of the St. Clair River AOC.

Deadline for Public Comment

Written comments are being accepted on this proposed removal of the Beneficial Use Impairment, *Restrictions on Dredging Activities*, in the St. Clair 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 December 11, 2009. If requested in writing by December 11, 2009, a public hearing may be scheduled. All comments received by December 11, 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.

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Water Bureau
Michigan Department of Environmental Quality
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References

MDEQ. 2008. Guidance for Delisting Michigan's Great Lakes Areas of Concern. Report No. MI/DEQ/WB-06/001.

OMOE and MDNR. 1995. The St. Clair River Area of Concern Water Use Goals, Remedial Measures and Implementation Strategy, Stage 2 Remedial Action Plan.

OMOE and MDNR. 1991. The St. Clair River Area of Concern Environmental Conditions and Problem Definitions, Stage 1 Remedial Action Plan.