



Huron
River
Watershed
Council

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25 February, 2008

Ms. Sarah LeSage
Michigan Department of Environmental Quality
Water Bureau
P. O. Box 30273
Lansing, MI 48909-7773

RE: Comments on the Draft 2008 Sections 303(d) and 305(b) Integrated Report

Dear Ms. LeSage:

The staff of the Huron River Watershed Council (HRWC) has reviewed the draft Integrated Report (IR) and presents the following questions in order to improve our understanding of the IR's development and to achieve better characterization of the Huron River watershed's condition.

1. The draft IR adds approximately 60 new listings of waterbodies and waterways that are not supporting designated uses due to the presence of PCBs in the water column or in fish tissue. We would like to know what data has been collected to prompt this significant addition to the IR. Alternatively, if a model was used to generate the listings, then we would like to know what model was used and what input parameters were used. A related question: why do some waterbodies have TMDLs scheduled for PCBs and mercury, while the designated use of fish consumption is not assessed for the vast majority of other waterbodies and waterways? Additionally, will the MDEQ be developing ~60 TMDLs for PCBs in 2010 or will there be one umbrella TMDL?
2. HRWC has worked cooperatively with MDEQ biologists to share water quality data our agencies have collected, and that relationship has reaped reciprocal benefits. We would like to receive information about the data collection conducted by MDEQ for all of the listings in this draft IR, preferably receiving copies of the reports generated from the data gathering efforts.

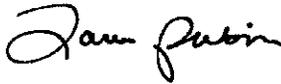
3. HRWC utilizes and maintains a GIS for most of our programs. How can we obtain the GIS layer for the 10- and 12-digit HUCs and the layer of Assessment Units from the MDEQ? Some of the water body designations do not correlate to ours.
4. Questions and comments regarding specific listings are as follows:
 - a. AUID: 040900050105-08 is listed as "miscellaneous waters" and also as a 156 ac freshwater lake. It appears to be a stretch in the Proud Lake Recreation Area. The AUID matches with a reach u/s of Dawson Rd. from the 2006 report. Is this the same listing or is it a new one for an unnamed lake?
 - b. 12-digit HUC: 040900050109 should be listed as Nichwagh Lake rather than Inchwagh Lake
 - c. What is the data source for the not supporting listing of Horseshoe Lake Drain (040900050301-03) due to sedimentation/siltation, and why has the schedule for TMDL development been moved back one year from 2009 to 2010? This reach was delisted in 2006 and is now being listed again in this IR. We would like to know why.
 - d. AUID: 040900050109-02 is described in the draft IR as "miscellaneous waters within HUC" but this name should be changed to the waterway's actual name of Yerkes Drain
 - e. Strawberry Lake's TMDL for phosphorus that was completed in 2000 indicates that the designated use is threatened, not impaired, and so this listing should reflect that the waterbody is attaining the use
 - f. AUID: 040900050309-05 is described in the draft IR as "miscellaneous waters within HUC" but this name should be changed to the waterway's actual name of Honey Creek. Also, while Honey Creek is listed as a 12-digit HUC (040900050308), the impaired AU appears to be (mis)placed in a different HUC (040900050309). Please clarify the location of the impaired reach.
 - g. AUID: 040900050402-04 is described in the draft IR as "miscellaneous waters within HUC" but this name should be changed to the waterway's actual name of Malletts Creek. It appears that DEQ's HUCs lump Swift Run and Malletts Creek drainages together, which is confusing.
 - h. Why is Willow Run Drain (AUID 040900050404-01) expected to attain full designated use for fish consumption in 2014? Is there any data to support this?

- i. The TMDL for *E. coli* at Phillips Lake Camp Dearborn Lake No. 5 Beach (AUID: 040900050105-09) is scheduled for 2019; this impairment should be addressed much sooner than 11 years from now so that the waterbody can be used for total and partial body contact recreation.
- j. The draft IR indicates insufficient information is available to determine whether total body contact recreation is being supported at Independence Lake County Park Beach (AUID: 040900050302-02). Washtenaw County Public Health ought to be able to provide MDEQ with bathing beach monitoring results in order to acquire sufficient information to make a determination.
- k. Barton Pond is the primary source of drinking water for the City of Ann Arbor (AUID: 040900050309-01) and, as such, the City follows state and federal monitoring requirements at its intake. The draft IR states that the designated use of public water supply has not been assessed. We suggest that the MDEQ revisit this item by reviewing the monitoring data collected by the City (and sent to the state). Perhaps a classification of fully supporting is more appropriate here.

Finally, it is apparent that not enough resources were available to determine whether the full array of designated uses is being met in all sections of the Huron River watershed. HRWC urges the MDEQ to allocate a sufficient portion of the budget to make these determinations in subsequent years, while recognizing the fiscal realities of the state. HRWC recognizes that the MDEQ budget is controlled by the legislature, but fully determining use attainment should be a high priority. It also would be helpful if the procedure for determining use attainment from monitoring data was made clearer.

Thank you for the opportunity to review the 2008 draft IR and to offer comments. Please contact me at (734) 769-5123 x12 or lrubin@hrwc.org to forward the information requested above or to discuss the contents of this letter.

Sincerely,



Laura Rubin
Executive Director

cc: HRWC files
HRWC board and member governments



ALLIANCE FOR THE GREAT LAKES
ENSURING A LIVING RESOURCE FOR ALL GENERATIONS

February 25, 2008

VIA FAX, EMAIL AND U.S. MAIL

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Re: Public comments on Michigan's proposed 303(d) list for 2008

Dear Ms. LeSage:

With 95 percent of the America's fresh surface water, the Great Lakes are a national and international treasure, providing drinking water, jobs and recreation to tens of millions of people. Michigan's proposed 2008 list of impaired waters must go further to address Coastal Health impairments to ensure that the Great Lakes Regional Collaboration Strategy is realized.

A key goal of the Great Lakes Regional Collaboration Strategy to improve Coastal Health is to achieve a 90-95 percent reduction in bacterial, algal, and chemical contamination at all local beaches. Steps to reach this goal include identifying indirect pollution sources capable of adversely impacting Great Lakes coastal health and promulgating and enforcing regulations to reduce the impact of these sources. Indirect pollution sources include algal blooms caused by nutrient loading during wet weather and aquatic invasive species.

With these comments, the undersigned organizations urge the Michigan Department of Environmental Quality (MDEQ) to ensure:

- Michigan must set stringent nutrient budgets and phosphorus limits to control algae growth and include algae impaired water bodies on the state's Category 5 list of impaired waters so these serious problems get the attention they deserve;
- Michigan must go beyond the presence of untreated sewage and E. coli bacteria as pollution indicators by evaluating damages to recreational uses that are caused by algae-infested waters and shores; and
- Michigan should make its list more accessible to the public by producing an easily viewed map graphically showing impaired water features and include the common name of the listed rivers, lakes and streams.

The Alliance for the Great Lakes (Alliance) has special reasons for urging MDEQ to ensure the 2008 303(d) list fully protects impaired waters. Formed in 1970, the Alliance's mission is to conserve and restore the world's largest freshwater resource using policy, education and local efforts, ensuring a healthy Great Lakes and clean water for generations of people and wildlife. The Alliance has thousands of dues-paying members and volunteers around the region who donate their time and money in support of the organization's work for a vibrant Great Lakes ecosystem. Several other organizations have signed this letter in support of our comments.

BACKGROUND

The Clean Water Act (CWA) requires states to assess their waters for compliance with the state's water quality standards (WQS). Under section 303(d) of the Act, each state must make public a list of waters that do not meet the WQS. This 303(d) list identifies the portion of the waterbody that is impaired, the pollutant(s) causing the impairment, and a schedule for the development of Total Maximum Daily Loads (TMDLs) to restore the impaired waters to health.

The objective of a TMDL is to allocate loads of a particular pollutant among the different sources of that pollutant so that appropriate control actions can be taken to bring the water into compliance with the identified water quality standards. The TMDL process plays a key role in cleaning our nation's waters, as it identifies the plan for the development and implementation of pollution controls for impaired waters. Thus, the 303(d) list is critically important to ensuring that states comply with their own water quality standards and meet the CWA goal of fishable, swimmable waters.

ISSUES OF CONCERN IN MICHIGAN'S PROPOSED 2008 IMPAIRED WATERS LIST

1) Michigan must set stringent nutrient budgets and phosphorus limits to control algae growth, and include algae impaired water bodies on the state's Category 5 list of impaired waters

Western Lake Erie and Saginaw Bay should be listed as impaired for nutrients and phosphorus under category 5 of Michigan's 303(d) list. According to the 2008 Draft Report, "Total phosphorus concentrations remain relatively constant and continue to be above the target total phosphorus concentration of 0.015 mg/L established by the 'Michigan Phosphorus Reduction Strategy for the Michigan Portion of Lake Erie and Saginaw Bay' (MDNR et al., 1985)." 2008 Draft Report, p. 57. Apparently relying on the state's 1985 nutrient reduction strategy, Saginaw Bay is not listed as impaired under category 5 of the list despite the recognized algae problems in Saginaw Bay. According to page 60 of the 2008 Draft Report:

"Periodic taste and odor problems associated with nuisance growths of the blue-green algae, *Microcystis*, occur in the municipal drinking water intakes in Saginaw Bay. As a result of this occasional problem, the entire Saginaw Bay is listed as not supporting the public water supply designated use. A nutrient

reduction strategy for Saginaw Bay (MDNR et al., 1985) is in place; therefore, a TMDL is not scheduled for this area."

MDEQ does not intend to develop a TMDL for Saginaw Bay; the list states that Saginaw Bay will meet phosphorus and nutrient standards in 2028. See 2008 Draft Report, Appendix C, page 404. MDEQ's decision to exclude Saginaw Bay from the TMDL process is improper since 40 C.F.R. § 130.7 generally requires that states develop TMDLs for all waters on its impaired waters list.

MDEQ also should address impairments from nutrients in western Lake Erie. According to the 2006 Lake Erie Lakewide Management Plan Report, "the amounts of nutrients present in the water in early spring have continued to rise, extending to eight years a trend that was first seen in 1995....In summertime, light is penetrating deeper into the water - algae are now growing (and producing oxygen) in the deep layers of the central basin and on the western and central basin lake bottoms."¹ Blooms in 2003 were particularly heavy as shown in the following photograph.²



The 1985 nutrient strategy is not an adequate alternative measure to address the serious nutrient and phosphorus problems in Saginaw Bay and western Lake Erie. According to 2008 EPA guidance on Integrated Reporting states that seek to use a general "4b alternative" to a TMDL

¹ 2006 Lake Erie Lakewide Management Plan Report (April 21, 2006), Sec. 11.3, available online at http://www.epa.gov/greatlakes/lakeerie/2006update/Section_11.pdf

² *Id.* at Sec. 11.7, Figure 11.2: Microcystis Bloom in the Western Basin, August 18, 2003 (LANDSAT 7 Image)

must provide a rationale demonstrating that other pollution control requirements are sufficiently stringent to achieve applicable water quality standards within a reasonable period of time.³ EPA recommends that the state submit their Category 4b demonstrations with their 303(d) list.⁴ Here, MDEQ has not provided an adequate alternative demonstration with the proposed list; MDEQ simply cites its 1985 strategy.

The May 1991 update report on Michigan's 1985 phosphorus reduction strategy made two recommendations to help come up with new goals for improving conditions in the Lake Erie and Saginaw Bay basins: (1) determine nutrient budgets for Lake Erie and Saginaw Bay and (2) determine new phosphorus reduction goals. Michigan must make greater progress on meeting these recommendations.⁵ Despite these recommendations, proper nutrient budgets and phosphorus reduction goals have not been met. Since Michigan's 1985 strategy has failed to solve the algae problems in Saginaw Bay and western Lake Erie, these waterbodies must be included in the Category 5 list of impaired waters to ensure that TMDLs are developed to correct the impairments. Michigan cannot wait 20 more years before taking action to address these serious phosphorus and nutrient problems.

2) Michigan must evaluate damages to recreational uses that are caused by algae-infested waters and shores

The proposed evaluation process for beneficial use impairments as to partial and total body contact recreation (i.e. wading and swimming) is restricted to only two factors--whether there is the presence of untreated combined sewer overflows and/or untreated sewage and the results of E. coli monitoring. See Figure 4.2 on page 56 of the Draft 2008 Integrated Report.

Several pages from the proposed impaired waters list cover certain beaches in specific numbered lists, but none address recreational damage from algae impairment. All are only focused on narrow criteria for total or partial body contact recreation based solely on E. coli or presence of uncontrolled sewage or CSOs. Michigan must go beyond these two factors and evaluate damages to recreational uses caused by algae-infested waters and shores. Where nutrients create algal blooms that impair the recreational use of a beach, the waterbody should be included on Michigan's impaired waters list.

For example, Saginaw Bay should be listed for these recreational use impairments. Sampling has shown high levels of fecal contamination in waters containing suspended algae (muck) and in the solids material on the shore. See, e.g., Draft Report Microbiological Quality of Saginaw Bay City Park (August 29, 2007) available online at:

[http://www.co.bay.mi.us/bay/home.nsf/public/AF7155ED02D7662D852573940074F343/\\$file/Saginaw_bay_junesample_Aug07+draft+rpt.pdf](http://www.co.bay.mi.us/bay/home.nsf/public/AF7155ED02D7662D852573940074F343/$file/Saginaw_bay_junesample_Aug07+draft+rpt.pdf)

³ Regas, Diane, *Information Concerning 2008 Clean Water Act Sections 303(d), 305(b), and 314 Integrated Reporting and Listing Decisions*, October 12, 2006, at http://www.epa.gov/owow/tmdl/2008_ir_memorandum.html (January 11, 2008).

⁴ *Id.*

⁵ The May 1991 update report is available online at: <http://www.co.bay.mi.us/bay/home.nsf/public/3B6CA38FDE21CC61852573CC005>

Based on this data, the Saginaw Bay should be listed as impaired to address impairments on beach use, such as impairments from algae, odors, dead birds/animals and solids on the shore. Michigan should conduct a similar evaluation at its other beaches and Great Lakes shoreline to include other waterbodies that are adversely impacted by these problems.

3) **An easily viewed map and common names are needed to make the 2008 list must be more accessible to the public.**

In MDEQ's response to comments on the 2006 list, MDEQ stated "The MDEQ is developing a web-based Geographic Information Systems for presentation of water quality data, with projected completion in fall 2006. It is our intention to include data used to draw conclusions regarding attainment status and to depict the attainment status by stream segment on color coded maps." MDEQ Response to Comments, Page P-4.

Rather than providing these color-coded maps, the proposed 2008 list requires the public to use a 14 digit hydrological code to determine a location. It is difficult for the public to identify the watercourses by the common name of the river, lake or stream because MDEQ did not provide that information in the draft list. This creates a barrier in the public's ability to understand the location and nature of impairments in Michigan's waters.

Public understanding of the impaired waters is vital, especially because Michigan's 2008 draft report shows many new areas with new dioxin, pathogen and mercury contamination problems since the 2006 report. Michigan should produce an easily viewed map graphically showing impaired water features under Section 303(d) of the Clean Water Act and include the common name of the listed rivers, lakes and streams.

CONCLUSION

We ask MDEQ to take action now to address the recent dramatic increase in algae blooms in Saginaw Bay and along Western Lake Erie and to solve the odor problems and health risks to beachgoers. MDEQ must also go further to warn the public about numerous new waterways found contaminated with dioxin, mercury and infectious bacteria since Michigan's last report to federal officials in 2006.

Thank you for the opportunity to submit these comments. Should you have any questions about our comments, please do not hesitate to contact me at 312-939-0838 x230 or LWelch@greatlakes.org.

Sincerely,



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Manager, Water Quality Programs
Alliance for the Great Lakes

Roger C. Nugent, Executive Director
BaySail - Appledore Tall Ships

Robert Burns, Detroit Riverkeeper
Friends of the Detroit River

Cheryl Mendoza, Policy and Networking Specialist
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Sandy Bihn
Western Lake Erie Association/Waterkeeper,
Toledo Lighthouse Society President



NATIONAL WILDLIFE FEDERATION®
Great Lakes Natural Resource Center®

February 25, 2008

VIA E-MAIL

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Re: Comments on the *Draft 2008 Sections 303(d), 305(b), and 314 Integrated Report*

Dear Ms. LeSage:

On behalf of the National Wildlife Federation ("NWF"), I am writing to comment on the *2008 Sections 303(d), 305(b), and 314 Integrated Report* ("IR"). In particular, NWF wishes to address the treatment of exotic species in the IR. (The term "exotic species" means any species that is not native to a particular ecosystem, including its seeds, eggs, spores, or other biological material capable of propagating that species. Exotic species which have invaded or been introduced in Michigan waters and established themselves there are "invasive species.")

Many exotic species have invaded and become established in Michigan waters, and they have seriously impaired these waters. Additional invasions are expected to occur at an increasing rate unless effective safeguards are placed on the discharge of ballast water from oceangoing vessels. Thomas Johengen et al., *Assessment of Transoceanic NOBOB Vessels and Low-Salinity Ballast Water as Vectors for Non-indigenous Species Introductions to the Great Lakes 1-1* ("*NOBOB Final Report*"), <http://www.glerl.noaa.gov/res/projects/nobob/products/NOBOBFinalReport.pdf> (last visited Feb. 25, 2008); United States General Accounting Office, *Invasive Species: Clearer Focus and Greater Commitment Needed to Effectively Manage the Problem* ("*Clearer Focus Report*"), GAO-03-1, at 56 (Oct. 2002), <http://www.gao.gov/new.items/d031.pdf> (last visited Feb. 25, 2008). "[S]cientists have identified 17 species from the Ponto-Caspian region (Caspian, Black, and Azov Seas) of Eastern Europe alone that have a high invasion potential, are likely to survive an incomplete ballast-water exchange, and are considered probable future immigrants to the Great Lakes." *Clearer Focus Report* at 56.

The IR notes that exotic species have caused "significant and detrimental changes in the Great Lakes ecosystem." IR at 31. Yet, even though Michigan has acknowledged that exotic species are "pollutants," the IR fails to (1) include waters impaired or threatened by exotic species in the category of waters requiring a TMDL, (2) identify exotic species as a cause of the

impairments or threats, and (3) develop TMDLs to address the impairments or threats caused by exotic species. The Michigan Department of Environmental Quality (“DEQ”) must revise the IR to correct these defects.

1. Exotic species are pollutants.

The federal Clean Water Act (“CWA”) defines the term “pollutant” to mean “biological materials . . . discharged into water.” 33 U.S.C. § 1362(6). The courts have interpreted this definition to include live animals, and exotic species in particular. *National Wildlife Federation v. Consumers Power Co.*, 862 F.2d 580, 583 (6th Cir. 1988) (fish and fish remains are pollutants because they constitute biological materials); *Northwest Env’tl. Advocates v. EPA (“NEA v. EPA”)*, No. C 03-05760 SI, 2005 WL 756614, at *9 (N.D. Cal. Mar. 30, 2005) (a ballast water discharge is a discharge or addition of pollutants under the CWA because it introduces biological materials from outside sources); *United States Pub. Interest Research Group v. Atl. Salmon of Me., LLC*, 215 F. Supp. 2d 239, 247 (D. Me. 2002) (“Fish that do not naturally occur in the water, such as non-North American salmon, fall within the term ‘biological material’ and are therefore pollutants under the Act.”).

Michigan has acknowledged that invasive species are pollutants. In *NEA v. EPA*, the Attorney General joined in a brief *amici curiae*, which stated as follows:

The CWA specifically includes “biological materials” such as alien aquatic nuisance species in its definition of pollutants. 33 U.S.C. § 1362(6). The discharge of ballast water from vessels constitutes the addition of pollutants because ballast water is known to contain alien aquatic nuisance species. There is no dispute as to this fact.

Brief for Amici Curiae the States of New York, Michigan, Wisconsin, Minnesota, Illinois And the Commonwealth of Pennsylvania in Support of Plaintiffs’ Motion for Summary Judgment at 16.

Therefore, the DEQ must identify those waters within the State’s boundaries for which effluent limitations and other pollution control requirements are insufficient to ensure compliance with any applicable water quality standard because of exotic species. 33 U.S.C. § 1313(d)(1)(A); 40 C.F.R. § 130.7(b)(1).

2. Exotic species are impairing or threatening Michigan waters.

A pollutant impairs a state’s waters when effluent limitations and other pollution control requirements are not stringent enough to implement any water quality standard applicable to such waters. 33 U.S.C. § 1313(d)(1)(A); 40 C.F.R. § 130.7(b)(1). A “water quality standard”

("WQS") consists of the designated uses of the water involved, the water quality criteria based upon such uses (both numeric and narrative criteria), and antidegradation requirements. 33 U.S.C. § 1313(c)(2)(A); 40 C.F.R. §§ 130.2(d), 130.7(b)(3). Thus, impairments exist where effluent limitations and other pollution control requirements are not stringent enough to implement any one of the three components of a WQS, whether it be the designated uses, water quality criteria (numeric or narrative), or antidegradation requirements of the WQS. *Cf. PUD No. 1 v. Washington Dept. of Ecology*, 511 U.S. 700, 715 (1994) ("a project that does not comply with a designated use of the water does not comply with the applicable water quality standards").

The state legislature arguably established a narrative criterion for invasive species by defining the term "aquatic nuisance species" ("ANS") and creating a goal of preventing their introduction. Specifically, the legislature defined ANS as follows:

"Aquatic nuisance species" means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.

MCL § 324.3101(a). The legislature then established a goal of "prevent[ing] the introduction . . . of aquatic nuisance species within the Great Lakes." MCL § 324.3103a(1)(a). Read together, these provisions establish a narrative criterion of keeping the introduction of nonindigenous, or exotic, species below the level that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.

The DEQ includes the following in its list of designated uses of Michigan waters: agriculture, navigation, industrial water supply, warmwater fishery, coldwater fishery, indigenous aquatic life and wildlife, recreation, fish consumption, and public water supply. Mich. Admin. Code R. § 323.1100.

The DEQ has acknowledged that Michigan has experienced both ecological and economic harm as a result of invasive species. Comments of the Michigan Department of Environmental Quality on the United States Environmental Protection Agency Proposed Rulemaking Concerning Regulation of Pollutant Discharges Incidental to the Operation of Vessels, Including Ballast Water at 1 (Jul. 19, 2007). The IR indicates that exotic species are preventing compliance with the State's narrative criterion for exotic species and keeping the state's waters from attaining designated uses.

Exotic invasive species continue to have dramatic indirect and direct effects on the Great Lakes. Invasive species are responsible for increases in water clarity (especially in Lake Erie)[,] loss of organisms and biodiversity, disruption of food webs, and impacts

on economically important fish species (International Association for Great Lakes Research, 2002). Emerging research is also showing that exotic invasive species are causing changes in nutrient cycling and availability and contributing to increased plant and algae growth in many nearshore areas.

IR at 4.

To compile Michigan's list of impaired or threatened waters, the DEQ must go beyond these general statements. It must draw on the wealth of "existing and readily available water quality-related data and information" relating to the designated uses which are impaired by exotic species. 40 C.F.R. § 130.7(b)(5). This includes extensive data and information amassed by various governmental agencies. Even a small sampling of such data and information reveals impairments and threats to the State's narrative criterion and designated uses caused by some of the exotic species which the DEQ lists as among the most immediate threats to Michigan waters. IR at 31. These include the zebra mussel, ruffe, round goby, spiny water flea, fishhook flea, and Eurasian milfoil. *Id.*

- Industrial and Public Water Supply

The fishhook flea causes problems with drinking water supplies and interferes with industrial water systems. U.S. Geological Survey Nonindigenous Aquatic Species Database, <http://nas.er.usgs.gov/queries/FactSheet.asp?speciesID=163> (last visited Feb. 22, 2008). The zebra mussel has had "devastating economic impacts on municipal and residential drinking water delivery systems, power plant intakes, and industrial facilities that use raw surface water." *Clearer Focus Report* at 55. "They colonize pipes constricting flow, therefore reducing the intake in heat exchangers, condensers, fire fighting equipment, and air conditioning and cooling systems." U.S. Geological Survey Nonindigenous Aquatic Species Database, <http://nas.er.usgs.gov/queries/FactSheet.asp?speciesID=5> (last visited Feb. 22, 2008).

- Warmwater and Coldwater Fishery and Fish Consumption

The round goby has caused declines in the numbers of native fish species because of competition for food and habitat. U.S. Geological Survey Nonindigenous Aquatic Species Database, <http://nas.er.usgs.gov/queries/FactSheet.asp?speciesID=713> (last visited Feb. 22, 2008). The ruffe may have a detrimental effect on native yellow perch and walleye by feeding on their young or out-competing them for food. U.S. Geological Survey Nonindigenous Aquatic Species Database, *Gymnocephalus cernuus*, <http://nas.er.usgs.gov/queries/factsheet.asp?SpeciesID=7> (last visited Feb. 25, 2008). Yellow perch, emerald shiners, and trout-perch have all declined since the ruffe was introduced. *Id.* The effects of the zebra mussel's massive consumption of phytoplankton may ripple through the food web to affect fish, potentially causing increased competition, decreased survival and decreased

biomass of fish that eat plankton. U.S. Geological Survey Nonindigenous Aquatic Species Database, <http://nas.er.usgs.gov/queries/FactSheet.asp?speciesID=5> (last visited Feb. 22, 2008).

- Recreation

The zebra mussel affects recreational boating and fishing by attaching to exposed surfaces, increasing drag, overheating engines, sinking navigational buoys, and fouling fishing gear. U.S. Geological Survey Nonindigenous Aquatic Species Database, <http://nas.er.usgs.gov/queries/FactSheet.asp?speciesID=5> (last visited Feb. 22, 2008). Similarly, the fishhook flea can “achieve high population densities, forming ‘clumps’ that can entangle the fishing lines of anglers.” U.S. Geological Survey Nonindigenous Aquatic Species Database, <http://nas.er.usgs.gov/queries/FactSheet.asp?speciesID=163> (last visited Feb. 22, 2008). The spiny water flea also fouls fishing gear and competes with larval fish for food. U.S. Geological Survey Nonindigenous Aquatic Species Database, <http://nas.er.usgs.gov/queries/FactSheet.asp?speciesID=162> (last visited Feb. 22, 2008). Eurasian milfoil forms dense beds which restrict swimming, fishing and boating, and its decaying mats foul lakeside beaches. U.S. Geological Survey Nonindigenous Aquatic Species Database, <http://nas.er.usgs.gov/queries/FactSheet.asp?speciesID=237> (last visited Feb. 22, 2008).

- Indigenous Aquatic Life and Wildlife

“[A]fter habitat destruction, alien invasive species is the second leading cause of extinction of native aquatic species.” Great Lakes Water Quality Board, Report to the International Joint Commission, *Alien Invasive Species and Biological Pollution of the Great Lakes Ecosystem*, May 2001, at 3 (“*Water Quality Board Report*”), <http://www.ijc.org/rel/pdf/ais.pdf> (last visited Feb. 25, 2008). For instance, zebra mussels interfere with the growth, feeding, movement, respiration, and reproduction of native species, and it has been predicted that zebra mussels will cause the extinction of up to 140 native mussel species by 2012. *Clearer Focus Report* at 55. They have extirpated native unionid clams completely from Lake St. Clair. U.S. Geological Survey Nonindigenous Aquatic Species Database, <http://nas.er.usgs.gov/queries/FactSheet.asp?speciesID=5> (last visited Feb. 22, 2008).

Zebra mussels may cause biomagnification of toxins into both fish and birds. U.S. Geological Survey Nonindigenous Aquatic Species Database, <http://nas.er.usgs.gov/queries/FactSheet.asp?speciesID=5> (last visited Feb. 22, 2008). The spiny water flea competes with larval fish for food. U.S. Geological Survey Nonindigenous Aquatic Species Database, <http://nas.er.usgs.gov/queries/FactSheet.asp?speciesID=162> (last visited Feb. 22, 2008). Eurasian milfoil degrades water quality and depletes dissolved oxygen levels. U.S. Geological Survey Nonindigenous Aquatic Species Database, <http://nas.er.usgs.gov/queries/FactSheet.asp?speciesID=237> (last visited Feb. 22, 2008). It also “supports a lower abundance and diversity of invertebrates, organisms that serve as fish food,” and reduces foraging space available to large predator fish, making them less efficient at

catching their prey. *Id.*

3. The DEQ must identify exotic species as a cause of impairments or threats to Michigan waters.

The DEQ not only must include Michigan waters which are impaired or threatened by exotic species in its list of impaired or threatened waters, it must also identify exotic species as the cause of the impairment or threat. 40 C.F.R. § 130.7(b)(4) (“The list required under § § 130.7(b)(1) and 130.7(b)(2) of this section . . . shall identify the pollutants causing or expected to cause violations of the applicable water quality standards.”)

4. The DEQ must develop TMDLs to address the impairments or threats caused by exotic species.

The CWA requires the DEQ to establish TMDLs for Michigan waters impaired or threatened by exotic species “at a level necessary to implement the applicable water quality standards.” 33 U.S.C. § 1313(d)(1)(c); *see also* 40 C.F.R. § 130.7(c)(1) (“TMDLs shall be established at levels necessary to attain and maintain the applicable narrative and numerical WQS.”) (emphasis added). This means that a TMDL must be established at levels necessary to attain and maintain not just narrative and numerical criteria, but all elements of a WQS, including designated uses, even where they are expressed in broad, narrative terms. *Cf. PUD No. I v. Washington Dept. of Ecology*, 511 U.S. 700, 715-16 (1994) (“pursuant to [CWA] § 401(d) the State may require that a permit applicant comply with both the designated uses and the water quality criteria of the state standards”).

Thus, the absence of numerical criteria for exotic species in Michigan WQS does not excuse the DEQ from establishing TMDLs to address them. Rather, the DEQ must base TMDLs for exotic species on the designated uses of Michigan waters, and Michigan’s narrative criterion for exotic species.

Data and models are available to predict the likelihood of exotic species becoming invasive species, and may provide a basis for predicting an acceptable loading rate for point sources such as oceangoing vessels. *See* MacIsaac, H.J. *et al.*, *Modeling Biological Invasions of Lakes*, *Freshwater Bioinvaders: Profiles, Distribution and Threats*, F. Gherardi, ed. at 347-68 (2007), <http://web2.uwindsor.ca/courses/biology/macisaac/pages/publications.htm> (last visited Feb. 10, 2008); Thomas Johengen *et al.*, *Assessment of Transoceanic NOBOB Vessels as Vectors for Nonindigenous Species Introductions to the Great Lakes* (2004), http://www.research.noaa.gov/spotlite/archive/spot_nobob.html (last visited Feb. 10, 2008); Hugh J. MacIsaac *et al.*, *Modeling Ships' Ballast Water as Invasion Threats to the Great Lakes*, *Can. J. Fish. Aquat. Sci.* 59: 1245–1256 (2002), <http://www.math.ualberta.ca/~mathbio/publications/cjfas.pdf> (last visited Feb. 11, 2008). Yet, exotic species do not dissipate over time once they become established in the ecosystem, and the

Ms. LeSage
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Page 7

serious ecological, economic, and social harms caused by existing invasive species to the full range of designated uses justifies a highly cautionary approach.

The safest course would be to regard Michigan waters as unable to assimilate any random introductions of exotic species, which would mean a TMDL assigning quantitative zero allocations to point and nonpoint sources, both. In the absence of treatment technology or management practices capable of achieving zero, however, an alternative might be to establish a qualitative zero load, one which requires zero detectable loadings using the best sampling equipment and methodologies available. *See* M. Falkner *et al.*, Cal. State Lands Comm'n, Report on Performance Standards for Ballast Water Discharges in California Waters at 21 (2006), <http://ucce.ucdavis.edu/files/filelibrary/5802/25917.pdf> (last visited Feb. 22, 2008). At the very least, a TMDL should be based on the most stringent performance standards, which would drive the development of treatment technologies and management practices to meet them, as well as the development of methodologies for evaluating their effectiveness. *Id.* To NWF's knowledge, California has adopted the most stringent set of performance standards to date, as well as a schedule for meeting them. Cal. Code Regs. tit. 2, § 2291 *et seq.* (2008).

Thank you for the opportunity to submit these comments. Please add me to your mailing list for responses to comments, the DEQ's finalization of the IR, and its submission of the final IR to EPA.

Yours truly,

/s

Neil S. Kagan
Senior Counsel

These comments were prepared with the assistance of University of Michigan Law students Patrick Chen, Serena Liu, and Ralph Schofield.

February 25, 2008

Sarah LeSage
Michigan Department of Environmental Quality
Water Bureau
P.O. Box 30273
Lansing, Michigan 48909-7773

Re: Water Quality and Pollution Control in Michigan: 2008 Sections 303(d), 305(b), and 314 Integrated Report

Dear Ms. LeSage,

On behalf of the National Wildlife Federation ("NWF"), I am submitting comments on the draft Michigan 2008 Sections 303(d), 305(b), and 314 Integrated Report ("Integrated Report"). Working with our state affiliates (including Michigan United Conservation Clubs) and other groups, NWF has long promoted efforts to protect and restore water quality throughout the Great Lakes region and beyond. These efforts have included promoting more effective implementation of the total maximum daily load (TMDL) provision of the Clean Water Act (CWA) to protect and restore water quality.

We appreciate increasing Michigan Department of Environmental Quality (DEQ) work under the rubric of TMDL and related provisions of the CWA, including addressing persistent, bioaccumulative toxic (PBT) chemicals of concern such as mercury, PCBs, and dioxins. The draft 2008 Integrated Report appears to be comprehensive in identifying impaired or threatened waters in need of TMDLs for toxic chemicals. However, we have three principal concerns with the draft report: the protocol for listing waters impaired or threatened by mercury, the protocol for listing waters impaired or threatened by PCBs, and the process for developing and scheduling TMDLs for these waters. (These comments do not address a separate concern of ours, on the potential to address biological pollution (i.e., aquatic invasive species) through the TMDL program.)

Concerning the approach used in identifying waters listed for impairment by mercury (Section 4.8.1, Assessment Type: Physical/Chemical):

- The framework for identifying impairments based on fish tissue contamination (Figure 4.4, p. 47) is not sufficiently protective. While Michigan has established a threshold of 0.35 mg/kg mercury in fish as the level of concern, it is clear that moderate consumption of fish at lower concentrations can still lead to exposures exceeding the U.S. Environmental Protection Agency (EPA) reference dose of 0.1 µg/kg-day.
- For example, a 110 lb. woman of childbearing age regularly eating 8 oz./week of any fish covered in the Michigan Fish Advisory recommendations for inland waters (i.e., the maximum recommended rate)¹ would have mercury exposure 60 percent higher than EPA's reference dose. Given this, the last diamond decision point in Figure 4.4

¹ Maximum recommended consumption rate for women of childbearing age is one meal/week for eight species of fish (and exceeding 9 in. for three of those species), according to the 2007 Michigan Family Fish Consumption Guide, http://www.michigan.gov/documents/FishAdvisory03_67354_7.pdf

(“Is the fish species a top predator?...”) should include the possibility of identifying a water as “Not supporting”, in particular in the situation where the answer is “Yes”. As it is, the framework is confusing, as it implies greater concern about species which are not top predators, when in fact for PBT chemicals, there is concern about exposure via species higher on the food web, due to the higher concentrations that develop through biomagnification.

- On the same issue, we believe the protocol outlined in Table 4-3 (p. 48) is insufficiently protective, in particular in the second scenario (for water column data indicating “Supporting” and fish tissue data indicating “Not supporting”). Given in particular that the Michigan fish tissue protocol is not as protective as it could be (based on EPA’s reference dose, and the approach of some other state programs), any exceedance of the fish tissue criterion of 0.35 mg/kg should result in an automatic listing, regardless of water column data. In these situations, it could be that site-specific factors (e.g., higher methylation rates, other factors promoting mercury uptake) lead to higher fish tissue concentrations even at relatively low ambient water concentrations.²

Concerning the approach used in identifying waters listed for impairment by PCBs (Section 4.8.1, Assessment Type: Physical/Chemical):

- The Integrated Report only references water column PCB concentrations (Section 4.8.1.2, p. 48), which in comparing to the Human Noncancer Value can lead to a listing decision. However later in the report (e.g., Section 7.3 p. 69), fish contaminant monitoring is discussed. Presumably, fish tissue PCB data are obtained for a number of water bodies during a reporting period, and there is no reason these data (assuming adequate quality) should not be used in making listing determinations. They may in fact already be used in such a manner, but that should be clarified.
- In either case, the DEQ should have in place for PCBs a protocol similar to that in place for mercury (with the caveats noted above), as presented in Section 4.8.1 (pp. 45-48).

Concerning the TMDL development process (Section 9.3, pp. 78-80):

- The Integrated Report notes (p. 79) that TMDLs for mercury (for inland lakes) are generally scheduled for 2011, and TMDLs for organic pollutants with significant atmospheric sources (including PCBs) are scheduled for development starting in 2008. However, the text then states that TMDL development for mercury and PCBs will proceed in 2010 and 2011, respectively – the timing should be clarified.
- The document states that a strategy is under development to address waters impaired primarily by atmospheric sources of mercury and PCBs (p. 79). However, while there is earlier discussion of ongoing state and regional efforts to address mercury (Section 2.24.1, p. 30), there is no discussion of similar PCB reduction efforts. Assuming such an initiative is in place (or at least contemplated), this should be highlighted in the

² See for example discussion in Munthe J, Bodaly RA, Branfireun BA, Driscoll CT, Gilmour CC, Harris R, Horvat, M., Lucotte, M., Malm, O. 2007. Recovery of Mercury-Contaminated Fisheries. *Ambio*, 36(1):33-44.

same section; alternatively, existing PCB reduction efforts could be briefly summarized.³

- On the issue of existing efforts, text on p. 30 should refer to the “Binational Toxics Strategy” rather than “Binational Strategy”, and the reference in that section to the Region 5 “Mercury Workshop” should be clarified – presumably it is also referring to Michigan participation in the Region 5 Mercury in Products Phase-Down Strategy.⁴
- Most importantly, the document should clarify whether DEQ envisions developing individual mercury and PCB TMDLs for individual listed waters, or whether the “common approach” noted on p. 79 implies that a smaller number of TMDLs (e.g., regional or a single state TMDL) will be developed for these water bodies for each pollutant. The fact that waters impaired largely by atmospheric deposition are not separated into a subcategory of Category 5 on the list implies to us that DEQ is not proposing to delay TMDL development for such waters, while components of a “comprehensive mercury reduction program” are implemented in the meantime, an approach described in recent EPA guidance.⁵
- If in fact the state is planning on development of a small number of TMDLs, presumably the state may be looking to other examples (e.g., regional TMDLs in Minnesota⁶ and the Northeast Regional Mercury TMDL covering seven Northeastern states⁷) for additional guidance.

In summary, we appreciate the forward movement in Michigan with the total maximum daily load program, but believe another look at listing criteria noted above for mercury and PCBs is necessary to ensure protection of human health and the environment. In addition, we applaud the Department of Environmental Quality’s decision to develop mercury and PCB TMDLs in the next several years, but clarification of the exact approaches proposed, and incorporation of comprehensive reduction strategies as part of those approaches, will be necessary to ensure protection and restoration of the state’s waters.

Sincerely,

Michael Murray, Ph.D.
Staff Scientist

³ For example, reference could be made to state work in support of broader regional activities summarized in Binational Toxics Strategy progress reports (e.g., Great Lakes Binational Toxics Strategy 2006 Progress Report, available at <http://www.epa.gov/glnpo/bns/reports/2006glbtsprogressreport.pdf>)

⁴ Great Lakes Regional Collaboration, *Mercury in Products Phase-Down Strategy*, available at <http://www.glrc.us/documents/DraftFinalMercuryPhaseDownStrategy.pdf>

⁵ U.S. EPA, Listing Waters Impaired by Atmospheric Mercury Under Clean Water Act Section 303(d): Voluntary Subcategory 5m for States with Comprehensive Mercury Reduction Programs, Memo from Craig Hooks, Director, Office of Wetlands, Oceans, and Watersheds, to Regions 1-X Water Division Directors, March 8, 2007, available at <http://www.epa.gov/owow/tmdl/mercury5m/>

⁶ Minnesota Pollution Control Agency, Statewide Mercury Total Maximum Daily Load (TMDL) Pollutant Reduction Plan, available at <http://www.pca.state.mn.us/water/tmdl/tmdl-mercuryplan.html>

⁷ Northeast Regional Mercury TMDL, available at <http://www.neiwpcc.org/mercury/MercuryTMDL.asp>



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MICHIGAN CHAPTER

25 February 2008

To: Sarah LeSage
Michigan Department of Environmental Quality
Water Bureau
525 West Allegan Street
P.O. Box 30273
Lansing, Michigan 48909-7773

RE: 2008 CLEAN WATER ACT SECTIONS 303(d), 305(b), AND
314 INTEGRATED REPORT – DRAFT

Dear Ms. LeSage,

Thank you for the opportunity to review and comment on this draft Integrated Report for 2008. I can appreciate the amount of work that went into this project, since the department is bringing the state's listing methodologies into alignment with USEPA's methods. In the future, I do hope it will be easier to navigate the report. It's currently very difficult to do so – the result of which will be to limit public comment from members of the public who don't readily understand the HUC system. While it's a handy way to numerically reference stream segments for agencies, and it makes it possible to utilize GIS databases with the unique identifier that it provides, it's also near impossible to find stream stretches that people may know only by name. Thank goodness for Adobe's search mechanisms.

As you recall, the Sierra Club submitted a request, dated July 9, 2007, and noted in this draft, to list the nearshore waters of Lake Huron around Saginaw Bay as Impaired.

“My letter is to formally request that Saginaw Bay and the nearshore areas of Lake Huron affected by the “beach muck” be included in Michigan's 2008 Section 303(d), 305(b), and 314 Integrated Report. As you are aware, the Integrated Report describes the status of water quality in Michigan and includes a list of water bodies that are not attaining Michigan Water Quality Standards and require the establishment of pollutant Total Maximum Daily Loads (TMDL).”

We included with the request not our own data, but instead a series of reports produced by experts - 1) the Saginaw Bay Science Committee, 2) Dr. Joan Rose, and 3) DEQ OGL, all of which describe many of the problems eloquently encompassed by the term “beach muck.”

The area in question is listed on the Appendix B-2 Comprehensive List page 1145, under the AUID 040803000001-02 Saginaw Bay (Lake Huron) – but it is only listed at this time for impairment to Public Water Supply. The draft report explains in chapter 4 that data were used only from 2005 through December 31, 2006, to decide whether a water body is or is not meeting water quality standards for this current draft report, and whether it therefore should or should not be listed. Can you explain if this is the reason that the other categories, Total Body Contact Recreation, and Partial Body Contact Recreation, plus warm and cold water fishery, are currently noted as “not assessed”? It is clearly a threat to public health to come into contact

with the beach muck, so much so that Dr. Rose suggested in the public meeting where she presented her information, essentially that the public stay out of the beach muck.

Page 60 of the draft IR states that a "Nutrient reduction strategy", with a citation date of 1985, is in place – and therefore a TMDL is not required. However - that was 22 years ago – and the problem has not abated, and it's possible that it has instead worsened. Since the problem has manifested itself by producing the on-shore beach muck, and since that beach muck has been found to have fecal bacteria associated with it, the problem has most certainly worsened. It's obviously time for a new approach.

As you know, the USEPA's guidance for development of TMDLs is 13 years at the outside, so it's possible the TMDL approach may well garner results much sooner than the apparently failed "nutrient reduction strategy." As stated on page 3 of the IR, "Recent years have witnessed rapid rates of urbanization and housing development that influence pollutant and hydrologic loadings to surface waters tributary to the Great Lakes. The same paragraph states that "Surface water quality is generally showing improvement where programs are in place to correct problems and restore water quality." The nutrient reduction strategy is not doing the job, but in places around the state where a phosphorus TMDL is in development may well enjoy a speedier return to health. We urge the department to move to a TMDL strategy for the Saginaw Bay/Lake Huron nearshore areas in order to address the nutrient overload.

USEPA's guidance for the Integrated Report states that to list a water body as needing a TMDL that the cause of the impairment must be also listed. The state's draft report also states that data received after the 2006 timeframe might warrant a closer inspection in preparation for the 2010 IR. Would it not make sense to list such waters as "threatened", or in some similar new additional category, that might even be short of a TMDL, while new data are gathered to support the actual TMDL? The state may well be missing early opportunities to address waters that are not meeting WQS, situations where early attention may correct a situation, rather than let the problem worsen over time. For example, some streams may be threatened by land-applied manure runoff. A fish kill or die-off of macroinvertebrates may be a first sign, but continued inputs of the excess nutrients may cause a much longer-term problem, making a return to stream health much more costly.

In addition to our comments above, we would add that the Sierra Club agrees completely with comments prepared by Lyman Welch, of the Alliance for the Great Lakes. Our CAFO Water Sentinel Lynn Henning has documented many streams impaired by algae in her home area in Lenawee and Hillsdale counties. In addition, we've identified several likewise impaired streams in Clinton County, and in Huron County. The photo below shows an algae-choked stream in Lenawee County, also showing is the stream is receiving nutrient input from a field tile pipe carrying manure-water spilled out from manure land application. This is unconscionable – yet Michigan's rural waters are subjected to this every day but many are written off to category 4C because they are also maintained by county drain commissioners.



Michigan must set stringent nutrient budgets and phosphorus limits to control algae growth and include algae impaired water bodies on the states Category 5 list of impaired waters so these serious problems get the attention they deserve; likewise, Michigan must go beyond the presence of untreated sewage and E. coli bacteria as

pollution indicators by evaluating damages to recreational uses that are caused by algae-infested waters and shores; and

Section 2.4 Biosolids page 13

“Because biosolids contain nutrients and can therefore have a beneficial use as fertilizer or soil conditioner, recycling often is more effective than incineration or landfilling.” It’s not clear exactly what is meant by “more effective” – more effective than what, and more effective AT what? Also – the final sentence on that page states that land application of biosolids is a regulated activity. It is not regulated when it is animal waste that is being applied. Concentrated animal feeding operations are now required to have NPDES permits for water discharge – but the land application of manure is not regulated by that permit in the way that the process of land-applying human biosolids is regulated. For example, there is no residuals management plan – and there should be.

Section 2.17 NPDES page 19

Concentrated animal feeding operations should be added to the list of facilities that require a NPDES permit for water discharge.

Thank you for considering our comments. Should you have questions about our comments, please contact me at 517-484-2372 or at rita.jack@sierraclub.org.

Sincerely,

Rita Jack
Water Sentinels Project Director

From: "Rita Jack" <rita.jack@sierraclub.org>
To: <edlyk@michigan.gov>, <alexande@michigan.gov>, <briggssl@michigan.gov>
Date: 7/9/2007 4:22:10 PM
Subject: Saginaw Bay & Lake Huron shorelines: 303(d) listing request

9 July, 2007

Ms. Kay Edly

Saginaw Bay - 2004, 04080206

Mr. Eric Alexander

Ms. Shannon Briggs

Michigan DEQ Water Bureau

525 West Allegan Street

P.O. Box 30273

Lansing, Michigan 48909-7773

Via email to edlyk@michigan.gov, alexande@michigan.gov, and
briggssl@michigan.gov

Dear Ms. Edly, Mr. Alexander, and Ms. Briggs,

My letter is to formally request that Saginaw Bay and the nearshore areas of Lake Huron affected by the "beach muck" be included in Michigan's 2008 Section 303(d), 305(b), and 314 Integrated Report. As you are aware, the Integrated Report describes the status of water quality in Michigan and includes a list of water bodies that are not attaining Michigan Water Quality Standards and require the establishment of pollutant Total Maximum Daily Loads (TMDL).

A report that was finalized this spring and presented to the public on May 2 describes potential health risks associated with pathogens in the beach muck. The report, prepared by the Saginaw Bay Science Committee Pathogen Work Group, was entitled "Potential Public Health Risks Associated with Pathogens in Detritus Material ("Muck") in Saginaw Bay", was written by Dr. Joan Rose, Professor and Homer Nowlin Endowed Chair, Department of Fisheries and Wildlife at Michigan State University, with input from the Science Committee.

It's apparent that many of the problems of excess nutrient

Rita Jack

Water Sentinels Project

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Make all Michigan's waters fishable and swimmable.

CC: "Charles Bauer" <bauerc@michigan.gov>, "Anne Woiwode" <anne.woiwode@sierraclub.org>, "Joan Rose" <rosejo@msu.edu>, "Rita Jack" <rita.jack@sierraclub.org>

February 4, 2008

Sarah LeSage
Department of Environmental Quality
Water Bureau
P.O. Box 30273
Lansing , Michigan 48909-7773
lesages@michigan.gov

We submit the following comments on Michigan's 2008 impaired water list (draft 2008 Section 303(d) list). Our comments focus primarily on stream stretches in the **Tiffin Watershed, with one River Raisin Watershed comment.**

Our agricultural watersheds in Lenawee/Hillsdale Counties contain 12 CAFOs. During the last two years alone, 2006-2007, DEQ has documented **134 violations from these facilities, including 79 violations from Vreba-Hoff CAFOs in the Bean/Tiffin Watershed.** These ongoing violations continue to impact streams with discharges of manure, sediment, untreated liquids including silage leachate and contaminated milkhouse wastes.

The draft 2008 303(d) list under-represents the pollution and impact to designated uses in several local streams. Some information and documentation, such as the studies attached, may not have been included in DEQ's assessment. Attached please find:

Peter Badra, MNFI, *Mussel Survey of Bean Creek Watershed, 2004*

Janet Kauffman and Kathy Melmoth, R.N., *Bean/Tiffin DO Monitoring, Total Data, 2006*

Joan Rose and Rachel Katonak, MSU, *Risks to Human Health Associated with Water and Food Contaminated with Animal Wastes, August 16, 2005* (note p.6 on Cryptosporidium Studies in Michigan)

Joan Rose, *Lenawee/Hillsdale CAFOs Positive Cryptosporidium Results – 2005 data*

Our comments also include documentation and quotations from numerous DEQ Notice Letters—available from the Jackson District Office.

Comment pages follow for **Durfee Creek, Medina Drain, Silver Creek in Bean/Tiffin Watershed, and Rice Lake Drain in River Raisin Watershed.**

Sincerely,
Janet Kauffman
Kathy Melmoth, R.N.
Dave Melmoth

for Bean/Tiffin Watershed Coalition

Comments on 3 streams in Tiffin (Bean/Tiffin) Watershed (HUC 04100006) –

1. Durfee Creek (AUID: 041000060105-04 -- 3.01875 miles)

Background:

In 2004, Durfee Creek was listed in Cat 5 due to exceedances for DO jeopardizing biological communities. In 2006, Durfee Creek was upgraded to Cat 3, after reassessment.

The 2008 list notes Warm Water Fishery –Fully Supporting and Insufficient Information for the designated use Other Indigenous Aquatic Life and Wildlife, which apparently keeps Durfee Creek as Cat 3, with no TMDL scheduled.

We believe there is current and Sufficient Information indicating that Durfee Creek's Warm Water Fishery is Not Supported and Aquatic Life is Not Supported.

Current Documentation -- 2006-2007:

Our Bean/Tiffin DO monitoring project of 2006 indicated **7 of 14 water tests of Durfee Creek violated Michigan's water quality standard for DO**, including every sampling between mid-April and September, with DO often at **fish-kill levels** -- 0.2 mg/L, 0.8 mg/L, 1.3 mg/L, 2.4 mg/L (see attached 2006BeanTiffinDOMonitoringtotaldata.xls).

In early 2007, DEQ cited Vreba-Hoff CAFO on Dillon Hwy for **unlawful discharge of waste to Durfee Creek**, after spray-irrigation to fields. (DEQ Post Inspection Report, January 19, 2007). In March 2007, DEQ cited Vreba-Hoff for at least 3 leachate discharges into Durfee Creek: an **overflow of leachate** "caused by someone pushing out the bermed area to the east of the bunker so that leachate could flow out"; and **another overflow of leachate** to the south to wetlands connecting to Durfee Creek. (DEQ Notice Letter, March 14, 2007), then another **leachate discharge** days later (DEQ Notice Letter, March 21, 2007). Later in March 2007, DEQ cited Vreba-Hoff for **manure discharges to Durfee Creek** (DEQ Notice Letter to Vreba-Hoff, April 11, 2007) after pivot-irrigation of liquid manure -- "**contaminated water continued to flow for several days.**" The stream "was very dark in color and had a strong agricultural waste odor...Several areas of obvious overland flow and erosion from the irrigated field to the creek were noted. Very little to no vegetated buffer exists along the creek." DEQ noted the pivot irrigator "travels through a low wet area where irrigation of waste easily flows into the creek." In addition, "**leachate continues to discharge** through berms at feed bunker," which also drains to Durfee Creek.

In follow-up legal action by DEQ and the Attorney General's Office for these and other violations, Vreba-Hoff was fined \$180,000 and ordered to build a new treatment facility—to replace the failed previous treatment system (Ingham County Interim Court Order, June 2007).

However, again in August 2007, Vreba-Hoff was cited for multiple discharges, including **discharge of sand solids and feed waste to Durfee Creek** during a recent rain, failure to meet required deadlines for manure processing, failure to meet required deadlines for sand separation devices, etc. (DEQ Notice Letter to Vreba-Hoff, August 31, 2007)

For these reasons, we believe that both **Warm Water Fishery** and the **Indigenous Aquatic Life of Durfee Creek are Not Supported** – the Cause: **Organic Enrichment (Animal Waste), Dissolved Oxygen**, and we request Durfee Creek be re-listed as such, with TMDL study scheduled as soon as possible.

2. Medina Drain (AUID: 041000060-03 – 2.515625 miles)

Background:

In 2004, Medina Drain was listed as Cat 5, the “impairment resulted from land application of agricultural waste from a CAFO.” In 2006 the listing was changed to 4b after “Enforcement action taken against the facility [Vreba-Hoff] by the MDEQ resulted in a 2004 settlement that required the facility to install a **treatment system that will eliminate land application of agricultural waste.**” (2006 DEQ Appendix J)

The 2008 draft finds *E. coli* as Cause for Medina Drain Not Supporting TBC and PBC, for which the TMDL schedule is 2012. Warm Water Fishery and Aquatic Life (we assume the line after WWF should be Aquatic Life, not WWF repeated –correct that line?) are found Not Supporting because of Organic Enrichment and DO. However, no TMDL schedule is set – why is that? Because Medina Drain is Expected to Attain in 2024 since no land application of ag waste is presumed? **This is not true—land application of Vreba-Hoff agricultural waste continues**, in the form of spray-irrigation of untreated milkhouse wastes and silage leachate. In addition, DEQ Notice Letters to Vreba-Hoff cite discharges of sediment and, most recently, discharges from a pipe at the CAFO facility. We believe pollution of Medina Drain is ongoing, and the stream cannot possibly be “expected to attain” unless action is taken.

We believe TMDLs should be scheduled for all listed Uses and listed for the earliest date possible.

Current Documentation -- 2006-2007:

In 2006, our Bean/Tiffin DO Monitoring of Medina Drain and South Medina Drain found 5 of the 6 samples which violated Michigan water standards for DO were at **fish-kill levels**, below 3.0 mg/L. Clearly the “treatment” system did not eliminate organic enrichment and low DO from Medina Drain, since silage leachate and other waste liquids may still be applied.

In 2007, DEQ cited Vreba-Hoff for at least 8 discharges—two of them long-term and ongoing—into Medina Drain. In April, DEQ discovers unauthorized berms in South Medina Drain and is informed of a **manure discharge** through field tiles last fall (2006). Vreba-Hoff was cited for failure to report this discharge. In addition, the illegal berms had been opened up, allowing **large amounts of sediment to discharge** and flow downstream, also a violation of Michigan law. (DEQ Notice Letter, April 11, 2007). In July, Vreba-Hoff was cited for **sediment discharges** to South Medina Drain after failure of silt fencing at the construction site of a new lagoon. DEQ inspection report also noted a **manure transfer structure was overflowing into a storm sewer emptying into South Medina Drain, and bedding, feed, and other waste was piled along the drain and down the embankment.** (DEQ Interim Order letter, August 7, 2007). Later in August, DEQ noted “a grave situation” at Vreba-Hoff facilities: DEQ cited the **failure of a concrete manure lagoon.** One concrete wall had cracked and leaned in, allowing manure to leak to an open trench (DEQ Letter, August 24, 2007). On Aug 28, Vreba-Hoff was cited again for multiple discharges, including a **sediment discharge** to South Medina Drain (DEQ Notice Letter, August 31, 2007). On September 9, the damaged Vreba-Hoff **manure lagoon overflows and discharges manure into South Medina Drain.** DEQ water tests find ***E. coli* levels at 370,000/100ml in the headwaters of South Medina Drain;** 2 days later, *E. coli* is still greater than 10,000/100 ml. In October 2007, Vreba-Hoff is again cited for **illegal discharge (apparently long-term and on-going) into South Medina Drain through a tile draining from the production area.** DEQ samples show high levels of nitrate and *E. coli* in effluent from the tile which had not been dye-tested as required by the 2004 Consent Judgment. (DEQ Notice Letter, December 7, 2007)

Given this evidence of continuing Organic Enrichment, low DO, and *E. coli* in Medina Drain, DEQ cannot reasonably expect Medina Drain to attain or support any of its designated uses without immediate intervention and restoration of this stream.

We request that **TMDLs for Medina Drain** be set for **TBC, PBC, Warm Water Fishery and Aquatic Life** as soon as possible.

3. Silver Creek – (AUID: 041000060201-02 – 7.956875 miles)

Silver Creek is currently listed as Fully Supporting **Indigenous Aquatic Life**. This stream, until sometime recently, did support freshwater mussels. Drain work and agricultural practices appear to have caused an **extreme loss in mussel population**--note the 2004 MNFI Mussel Survey of Bean Creek and tributaries, which found no live mussels at all in Silver Creek upstream from M-120 at Morenci, only empty shells (see excerpt below from attached report by Peter Badra, MNFI – Bean mussel surveys 04 whole report.pdf).

“Silver Creek at M-120 (BC6) had very little riparian forest remaining, and had less habitat for fish and more silt than sites in St. Joseph Creek. The habitat structure was almost entirely run, with fewer pools and riffles than St. Joseph Creek. The stream appeared as if it had been dredged and/or channelized in the past. **Empty shell of *Lampsilis siliquoidea* (fatmucket) were found, indicating live individuals were present at least as recently as a couple years previous.** *L. siliquoidea* is a tolerant species that is able to survive in silty substrates and does not require good stream current like most unionids. They are widespread and common, and thought to be one of the first species to re-colonize degraded habitat and one of the last to remain in degraded habitat.”

(p.8-9, Peter Badra, MNFI, *Surveys for Freshwater Mussels (Unionidae) in the Bean Creek Watershed, Hillsdale and Lenawee Counties, Michigan, 2004*)

We request that the **Silver Creek listing for Indigenous Aquatic Life be changed to Not Supporting**, with TMDLs scheduled as soon as possible.

Comments on 1 stream in River Raisin Watershed (HUC 04100002)

Rice Lake Drain (AUID: 041000020302-0? – approx. 2 mi), tributary of Bear Creek/Black Creek (sect. 30, 31 Dover Twp, Lenawee Co)

Rice Lake Drain for some reason does not appear on the 2008 list or so far as we know on previous lists of impaired waters. We believe there is sufficient data to include it as **Not Supporting Total Body Contact and Partial Body Contact, because of *E. coli* and *Cryptosporidium***. Water tests from several years ago indicated critical contamination, and follow-up studies have not been done. They should be.

Rice Lake Drain suffered at least 10 manure discharges from Vanderhoff Haley (now Hoffland) CAFO between 2001-2004. In September 2003, the CAFO was cited by DEQ for multiple discharges, including **septic wastes and silage leachate, into Rice Lake Drain**. *E. coli* levels reached 1,110,000/100 ml on Sept. 15 and **5,200,000/100 ml** on Sept. 22. (DEQ Notice Letter, September 29, 2003). After a **manure pit overflow** in December 2003, which drained into a catch-basin at the facility and through tile into Rice Lake Drain, DEQ water samples in Rice Lake Drain at Haley Road found *E. coli* bacteria counts as high as 104,000/100ml. (DEQ Notice Letter, December 3, 2003). DEQ filed a suit against the CAFO, settled in 2006, with \$20,000 in fines, but no follow-up monitoring of Rice Lake Drain.

A 2005 project by Dr. Joan Rose, Homer Nowlin Chair in Water Research at MSU, tested for *Cryptosporidium* near CAFOs in Lenawee/Hillsdale Counties. Dr. Rose reports “**the highest detected level of *Cryptosporidium* was at the white tile that drains into Rice Lake Drain near the Haley Road crossing with levels as high as 5990 oocysts per 10L**” (p. 6, “*Cryptosporidium* Studies in Michigan,” Rose and Katonak, *Risks to Human Health Associated with Water and Food Contaminated with Animal Wastes*, August 16, 2005 (see attached article: JoanRosemanurerisks.doc --and data file: JoanRoseCrypto summary.xls).

Critical as these contaminations were, there has been no remediation or monitoring in the intervening years. Rice Lake Drain should be added to the draft 2008 list.

We request that **Rice Lake Drain be added to Michigan’s impaired waters list as Not Supporting TBC and PBC**, with TMDLs scheduled as soon as possible.

We also request that DEQ consult Dr. Joan Rose’s findings of *Cryptosporidium*, if you haven’t already done so, and consider additional sites/streams she sampled, including the River Raisin at water intakes for Adrian, Blissfield, and Deerfield, for possible additions to the 303(d) list.

From: "Berry, Andrea - Owosso, MI" <andrea.berry@mi.nacdnet.net>
To: <lesages@michigan.gov>
Date: 1/30/2008 3:59:20 PM
Subject: Draft 2008 Sections 303d and 305b Integrated Report comment

Hi Sarah,

I have been going through the 303d and 305b draft report and have a couple comments.

First, regarding the map attached from Appendix A, http://www.michigan.gov/documents/deq/Appendix_A_222674_7.pdf, it incorrectly displays the Upper Grand River Watershed as spanning the northern boundary from east to west through Clinton, Ionia, and Kent Counties. This section of the Upper Grand (8 HUC) is the Upper Looking Glass River (10 HUC), as noted in the appendix B1, and actually spans from east to west through Shiawassee County then Clinton and Ionia Counties. Please note this correction in the final report.

Also, I was wondering if the TMDL sites will be mapped or if the surveyed drains will be highlighted on a final report? This would be very helpful in developing watershed management plans as well as targeting sites for implementation.

Thank you,

Andrea Berry

Mid-Shiawassee River Watershed Project Manager
Shiawassee Conservation District
1900 S. Morrice Rd.
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www.shiawasseeccd.org <<http://www.shiawasseeccd.org>>

Michigan Conservation Districts, Your Natural Resource Resource!

From: "Stacy Daniels" <stacydan@chartermi.net>
To: "SarahLeSage" <LeSageS@michigan.gov>
Date: 2/24/2008 9:56:25 PM
Subject: Draft 2008 Sections 303(d) and 305(b) Integrated Report

Sarah:

Attached please find my comments made on behalf of the Crystal Lake & Watershed Association.

Please let me know if I can provide further detail.

Dr. Stacy L. Daniels, CLWA

----- Original Message -----

From: Ralph Bednarz

To: Stacy Daniels

Cc: Gerald Saalfeld ; Jason Smith ; John Wuycheck ; SarahLeSage ; Stacy L Daniels

Sent: Thursday, February 07, 2008 3:23 PM

Subject: Re: Area of Crystal Lake, Benzie Co.

Stacy,

Thank you for these comments concerning the surface area of Crystal Lake. I will share your comments with Sarah LeSage and other DEQ-Water Bureau staff who worked on the draft 2008 Integrated Report.

Ralph.

>>> "Stacy Daniels" <stacydan@chartermi.net> 2/6/2008 8:13 PM >>>

Hi Ralph:

I was recently reviewing the Draft 2008 Sections 303(d) and 305(b) Integrated Report Available for Public Comment <http://www.michigan.gov/deq/0,1607,7-135-3313-184170--,00..html>. I noted a few discrepancies between a few MDEQ-listed items and CLWA-determined items that appeared here and there in the various appendices. I'll comment directly to Sarah LeSage in more detail on specific items on behalf of the Crystal Lake & Watershed Association (CLWA),

I especially noted that the area of Crystal Lake had been revised in Appendices B-2 and D! I fully support application of new methodologies and technologies, but the difference between the modified area (9,668 A) and our currently "accepted" value (9,854 A) is significant. This modification has a number of unforeseen consequences unless coordinated with local lake associations and county and state governments. We all want to be on the same page using the best and most consistent values for lake area.

Specifically the area of Crystal Lake has been revised from 9,711 A (*) to 9,667.7875 (Refs 1,2). I have long advocated that the 2006 (and prior dates) figure of 9,711 A used by MDEQ has been long obsolete (*) so I'm happy to see some movement toward revision. I am concerned, however, that the 2008 figure of 9,667.8 A has not been based upon all available knowledge (#), nor has it been sufficiently documented or justified for wide dissemination. There is only a generalized reference: "Due to updated assessment methodology (determination of geographic extent) and georeferencing techniques, the sizes associated with 2006 303(d) listings were updated for 2008."

I'd be happy to put these comments in a more formal letter if so desired. Let me know how you think I should proceed.

Regards, Stacy

Footnotes & References:

(*) McNamee, Robert L., Map of Crystal Lake Benzie County Michigan, copyright by Robert L. McNamee, Ann Arbor, Michigan, 1935. (Source LOM G4112.C79 1940 .M53). 1 map, 19 x 42 cm on sheet 28 x 43 cm, scale ca. 1:33,600.

http://www.dnr.state.mi.us/SPATIALDATALIBRARY/PDF_MAPS/INLAND_LAKE_MAPS/BENZIE/CRYSTAL_LAKE.PDF

(#) A biannual two-tiered lake level of 600 +/- 0.25 ft was established by court order in 1980.

I also note that the areas of several other inland lakes ranking in the top ten in size within Michigan have been even more significantly altered. Some of the top ten lakes were not included in the 303(d) modifications so I could not ascertain if the size rankings of the top ten and below were changed.

It is curious a value of 9,777.52 A is given at the MICorps website http://www.watershedcouncil.org/Michigan_InlandLakes_Top20.pdf with a citation (Ref 3) for which Tom Borton kindly provided me a personal copy.

I would have presumed that the modifications would track to more recent research by Jim Breck (Ref 4) who listed values of 9,869.0 A (GIS) and 9,788.6 A (Digitized) with whom I have corresponded as to relative comparisons of area values.

I am curious if there is yet another source for area calculations such as the National Hydrography Dataset (NHD) <http://nhd.usgs.gov/>. This approach was apparently used in the transition from the MI Water Body System to the USEP ADB (Assessment Data Base) georeferenced to the EPA Reach File (RF3) hydrography database and the Reach Indexing Tool <http://www.epa.gov/owow/monitoring/georef/> which in turn reverts back to state-specific data sources. Consequently, the current area modifications may not be based upon the most current maps. I downloaded the NHDH0406 component to no avail.

Dr. Stacy L. Daniels

Crystal Lake & Watershed Association

999 Crystal Dr

Frankfort, MI 49635

231/352-7043 (cottage)

989/835-5593 (home)

989/496-2233 (work)

(1) Draft Appendix B-2: http://www.michigan.gov/documents/deq/Appendix_B2_222694_7.pdf

(Beginning at page 333/1468:)

The area included here, 9667.7875 Acres (insignificant figures again), does not correspond with the figure of 9,854 A that is widely used by the CLWA.

The latter value was determined back in 2000-2001 by the CLWA in cooperation with NWMCOG, MDEQ, and TetraTech MPS, using the MIRIS data with a large GIS digitization of the McNamee map. It was then independently confirmed by both USGS (Lansing) and GLEC (Traverse City), and by WQI (Dexter). The value of 9,854 A has been used extensively at the CLWA website http://www.clwa.us/about_watershed.htm#Facts. It also appears in our Handbook, our newsletter, our Directory, and in the Interpretive Manual for the "Crystal Lake Walkabout", now in its 15th year with some 3,500 participants http://www.clwa.us/educ_comm.htm#Walkabout.

(2) Draft Appendix D: http://www.michigan.gov/documents/deq/Appendix_D_222679_7..pdf

(At page 17/26).

WBID MI081801D; Waterbody Name 2006 CRYSTAL LAKE; Waterbody Type 2006 FRESHWATER LAKE; Size 2006 Size 9711 A; 2008 Size 9667.8 A.

(3) Marsh, William M., and Borton, Thomas E., Michigan Inland Lakes and Their Watersheds: An Atlas, Michigan Department of Natural Resources, Water Resources Commission, 1974, 166pp..

(4) Breck, James E., Compilation of Databases on Michigan Lakes, State of Michigan, Department of Natural Resources, Fisheries Division, Technical Report

No. 2004-2, December 2004, 46pp.

<http://www.michigandnr.com/PUBLICATIONS/PDFS/ifr/ifriibra/technical/reports/2004-2tr.pdf>

CC: "Gerald Saalfeld" <SaalfeldG@michigan.gov>, "Jason Smith" <SMITHJ18@michigan.gov>, "John Wuycheck" <WuycheckJ@michigan.gov>, "Ralph Bednarz" <bednarzr@michigan.gov>, "Gary Kohlhepp" <KOHLHEPG@michigan.gov>

February 25, 2008

To: Sarah LeSage, MDEQ, Water Bureau, Surface Water Assessment Section
517-241-7931, lesages@michigan.gov

Cc: Ralph Bednarz bednarzr@michigan.gov; Gary Kohlhepp kohlhepg@michigan.gov; Gerald Saalfeld SaalfeldG@michigan.gov; Jason Smith SMITHJ18@michigan.gov; John Wuycheck WuycheckJ@michigan.gov.

From: Dr. Stacy L. Daniels, Crystal Lake & Watershed Association (CLWA) (*)

Re. **Draft 2008 Sections 303(d) and 305(b) Integrated Report Available for Public Comment**
<http://www.michigan.gov/deq/0,1607,7-135-3313-184170--,00.html>

We appreciate the opportunity to comment on this document that represents a significant, dedicated, and collective effort by the Water Bureau staff of MDEQ. This commenter has reviewed similar biennial documents in past years, but was impressed with the extensive data management changes in the current draft. We realize that "The information presented in the draft report and draft appendices are not final and are subject to change based on additional review (sic) and/or information."

We would like to submit comments specific to the Crystal Lake Watershed (HUC 04060104-0305). This Watershed is located entirely within Benzie County in NW Lower Michigan.

In cooperation with MDEQ, Tetra Tech MPS, and NWMCOG, and within concurrence of MIRIS data by USGS, a predecessor to our current organization (CLWF) developed a detailed GIS map <http://www.clwa.us/GRAPHICS/crystalws082801a.jpg> depicting 17 sub-sub-watersheds (#1-3, 5-18) within the Crystal Lake Watershed, and an 18th sub-subwatershed (#4, which we call Outlet Creek) located downgradient from Crystal Lake, which is actually within the Betsie River Watershed. This map is shown on the following page for illustration.

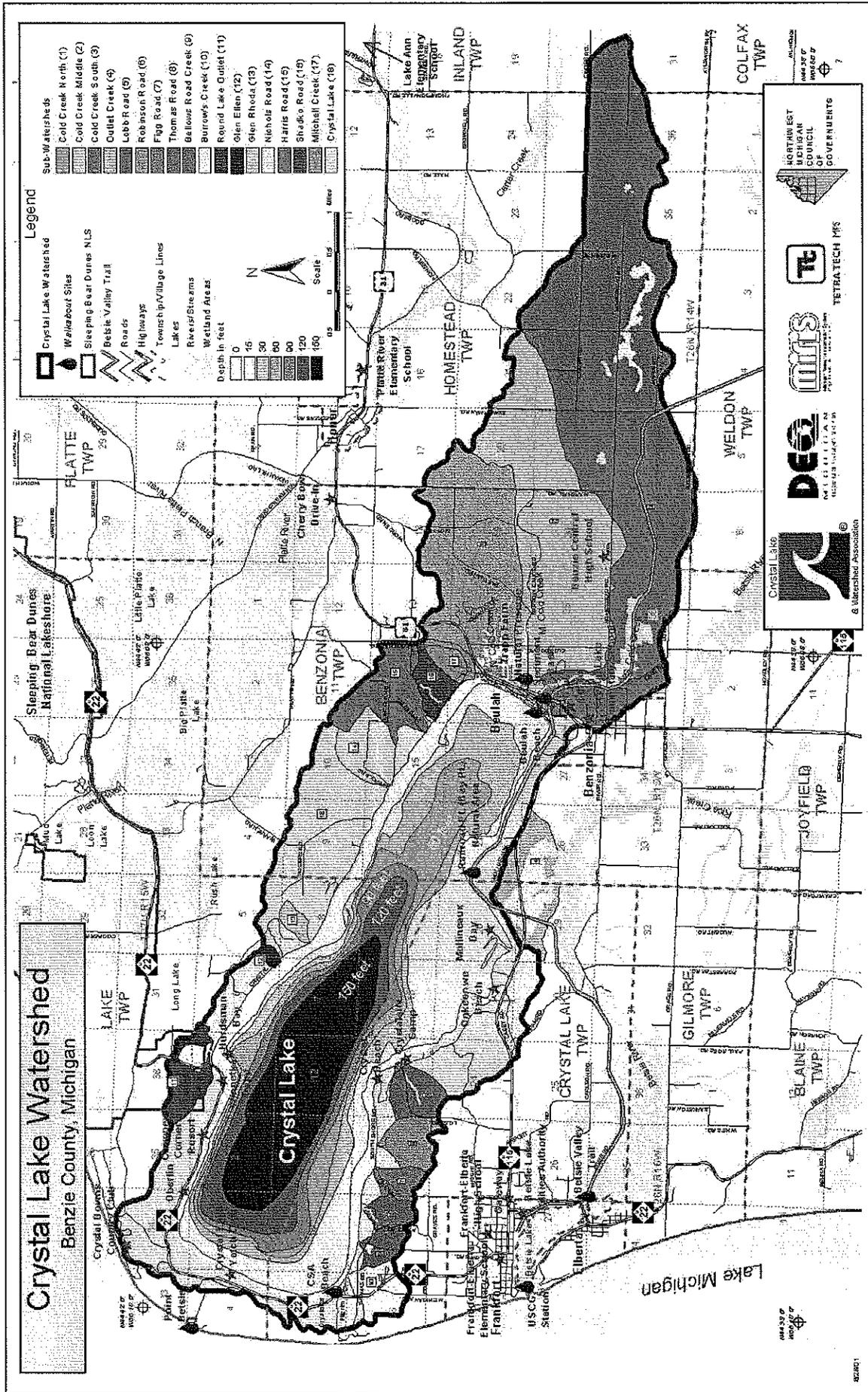
The depiction and use of the full 12-digit HUC's for MI is therefore greatly appreciated. The Crystal Lake Watershed (HUC 04060104-0305) has previously been limited as being shown as a subwatershed of the Betsie - Platte Watershed (HUC 04060104) in Appendix A. For some time, the water quality data summarized nationally in the STORET database (U.S. EPA) has been limited to only to the 8-digit HUC classification. This has resulted in the water quality data for Crystal Lake, a large oligotrophic lake within a small subwatershed, being comingled and averaged together with the data for two larger contiguous riverine watersheds (Betsie River and Platte River).

There appear to be a number of relatively minor discrepancies and/or differences of interpretation between the descriptions of listed entities and/or numerical values for subwatershed areas and stream reaches within HUC 040601040305 from those researched, defined, and widely used and distributed by the CLWA. There are also ambiguities within the text of the tables as to 'assessed' and 'unassessed' status, and with designated uses and use supports that require further elaboration. I have been following various MDEQ/MDNR actions affecting water quality of the Crystal Lake Watershed since the mid-1960's and have attempted to remain as current on their interpretations.

Some of these uncertainties in interpretation may lie in differences between our local interpretations and the interpretations by MDEQ on specific designations for specific locations. We also suspect that there are "ghosts" of past, present, and future regulatory actions and incongruities among databases that have carried over into the current draft.

We would be happy to provide further input where appropriate. Respectfully submitted.

(*) Crystal Lake & Watershed Association, P.O. Box 89, Beulah, MI 49617, 231/882-4001, info@CLWA.us, www.CLWA.us



For detailed facts on the Crystal Lake Watershed, see at http://www.clwa.us/about_watershed.htm#Facts
 Areas of the 17 + 1 subwatersheds are provided at <http://www.clwa.us/PDF/CLWFWaterShdsAbridged062204.pdf>

Comments by the Crystal Lake & Watershed Association on:

WATER QUALITY AND POLLUTION CONTROL IN MICHIGAN, 2008 SECTIONS 303(d), 305(b), AND 314 INTEGRATED REPORT, MI/DEQ/WB-08/007, Michigan Department of Environmental Quality, Water Bureau, April 2008, 96pp.

http://www.michigan.gov/documents/deq/wb-draft-2008-integratedreport_222789_7.pdf

The CLWA recognizes the mission of MDEQ to fulfill reporting requirements under the federal Water Pollution Control Act (PL 92-500) by assessing the quality of waters [Section 305(b)], by listing waters that do not support designated uses or attain water quality standards (WQS) and require the development of total maximum daily loads (TMDLs) [Section 303(d)], and by assessing status and trends of publicly owned inland lakes (Section 314). We have a few comments pertaining to the Main Report:

The CLWA subscribes to the Carlson TSI classification criteria and the use of ambient water column nutrient concentrations to determine designated use support. Crystal Lake is classified as a very "Oligotrophic" inland lake by all criteria. http://www.clwa.us/water_quality.htm#Chemical

We have pointed out in a past study, however, in conjunction with biological indicators as determined by rapid bioassessment of macroinvertebrate communities in wadeable streams and rivers, that, "It should be understood that both the Great Lakes and Environmental Assessment Section (GLEAS) procedure and the Stream Crossing Watershed Survey (SCWS) procedure for biomonitoring are intended for wadeable streams. Examples in Benzie County are the Platte and Betsie Rivers. Statistical methods, while valid for these larger streams, are less applicable to smaller tributary streams, like the branches of Cold Creek." (Biomonitoring of the Cold Creek Watershed, 2003, (emphasis added))
<http://www.clwa.us/PDF/CLWFvolmonfinal032804.pdf>

The overextension of the classification criteria to small tributaries that possess excellent water quality, and that contain overall high numbers of sensitive macroinvertebrates but otherwise by nature have limited biodiversity, lead to inappropriate designations of "poor" or "fair" that become statistical anomalies.

The CLWA supports periodic sampling and reassessment of the Crystal Lake Watershed. We have participated in the Cooperative Lakes Monitoring Program (CLMP) for many years. We have also conducted side-by-side monitoring of water quality with MDEQ, USGS, and SBDNL staff, as parts of the five-year assessments and other special studies. We have also worked closely with individual MDEQ staff to be continually aware of new developments and issues.

We have conducted other independent and collaborative studies within the Crystal Lake Watershed <http://www.clwa.us/PDF/CLWASTudies05041205.pdf> and have summarized studies in contiguous watershed <http://www.clwa.us/PDF/CLWAREFS05062705.pdf> (to be updated by SLD).

The Crystal Lake Watershed is not considered an Area of Concern (AOC) and has not been subject to any major environmental concerns other than those attributable to global or Great Lakean influences beyond local control. To our knowledge there are no specific pollutants of local origin that merit consideration of a Total Maximum Daily Load (TMDL).

We recognize that there is a specific fish consumption advisory for Crystal Lake due to a borderline level of PCB in certain fish species. We also recognize that there is a generic, statewide, mercury-based fish consumption advisory that applies to all of Michigan's inland lakes. We believe that provision should be made available within the regulatory structure for individual watersheds to "test-out" of such designations.

We have made several recommendations for recharacterization and reassessment of items listed under HUC 040601040305 as noted for Appendices A, B-2, C, D, and E. Names and physical characteristics should be corrected to reflect definitions familiar to the Watershed. All available water quality data should be accessed for complete assessment. Designated Uses should then be reviewed to reflect Use Supports. We recommend certain subwatersheds be considered for revision, addition, or deletion.

Draft Appendix A: http://www.michigan.gov/documents/deq/Appendix_A_222674_7.pdf

The map for HUC 04060104-0305 at page 33/65 appears to be correctly depicted! Previous interpretations of the MIRIS data have incorrectly associated the subwatershed of Outlet Creek with the Crystal Lake Watershed (-305) and not with the Rice Creek – Betsie River Watershed (-306). Water from Crystal Lake flows downgradient to the latter and not upgradient to the former! (cf. associated comments on Appendix B-2)

We would raise only one issue on the map re. the fine-grey-line detail within HUC 04060104-0305. These lines do not appear to conform to any of the tributary streams, and if so intended, are in error. This may be an artifact of the GIS resolution. (Was RS&GIS from MSU involved in any way?) (It would be nice to use the select tool to copy portions of the HUC maps.)

Draft Appendix B-2: http://www.michigan.gov/documents/deq/Appendix_B2_222694_7.pdf

The individual items listed beginning at pages 333-5/1468 are inconsistently named and fragmented. There are six listed entities but they are not easily associated with any known subwatersheds of the Crystal Lake Watershed other than Cold Creek.

HUC 040601040-305, should be labeled "CRYSTAL LAKE WATERSHED", and not "Crystal Lake Outlet". The Crystal Lake Outlet per se, although a separate subwatershed, is NOT part of the Crystal Lake Watershed. And should be associated with the Rice Creek – Betsie River Watershed (-306)!

AUID 040601040305-01 Rivers/Streams in HUC 040601040305

The subtitle, "Includes: Crystal Lake Outlet" (0.916875 miles – insignificant figures) is an incorrect designation and should be moved with a format change to "HUC 0406010306-x". The Crystal Lake Outlet is NOT part of the Crystal Lake Watershed! It is tangent to the lakeshore of Crystal Lake, but hydrologically, it is downgradient from the Lake and in a contiguous watershed, as correctly depicted in Appendix A (cf. comment in Appendix A above). Consequently, the "Crystal Lake Outlet" should be part of HUC 040601040306 "Rice Creek(?) – Betsie River". The "River" (Stream?) length of 0.916875 (0.917?) miles appears correct, but contains excessive and insignificant figures!

AUID 040601040305-02 Rivers/Streams in HUC040501040305 Includes Cold Creek

This subtitled entity apparently designates the major tributary of Crystal Lake, but actually contains three sub-subwatersheds (#1,2,3) associated with the North, Middle, and South Branches of Cold Creek comprising 38% of the total Crystal Lake Watershed of 28,145 A (L+W).

The "river" (Stream?) length of 3.444375 (3.444+?) (insignificant figures) miles for "Cold Creek" appears very conservative since there are three subwatersheds with several branches and subbranches extending some three miles east of the Lake. This series of subwatersheds was the subject of an extensive biomonitoring study partially funded by MDEQ in 2003 that apparently has not been used in assessment http://www.clwa.us/references.htm#Biomonitoring_of_Cold_Creek

A very small portion adjacent to Crystal Lake and distinct from this series was included in a sum of collective lands and wetlands adjacent to the shoreline around the perimeter of Crystal Lake (#18). The coastal watersheds immediately adjoining Lake Michigan to the west are correctly excluded from the Crystal Lake Watershed. There is considerable groundwater flow through this area, however, from Crystal Lake to Lake Michigan, since Crystal Lake is ~ 23 feet higher in elevation (600 vs. 587 ft USGLD) and the predominantly porous soils are a result of the closing of the embayment lake in post glacial times.

We suggest that all subwatersheds of the Crystal Lake be reviewed. Some that are currently not included may be worthy of inclusion; others that are currently included but ambiguously defined could be deleted. The areas of the subwatersheds (Land + Water) might also be considered in such a review. In the present system small snippets of shoreline and/or streambank (0.2 mi) are included, but several other larger subwatersheds are apparently excluded because their tributaries are unknown or undefined (?).

We also do not fully understand the tabulated interpretations (333-4/1468) for "Designated Use" and "Use Support" as summarized for the listed subwatersheds of HUC 040601040305. It appears that not all available data has been integrated into these tables. Crystal Lake and its Watershed has been the subject of numerous studies and assessments going back more than fifty years. It is inconceivable that there is "Insufficient Information" to support "Total Body Contact Recreation" in one of the most significant recreational lakes in Michigan! There are notes of "Fully Supporting" Navigation (Yes), Industrial Water Supply (no industry), and agriculture (some).

The Warm and Cold Water Fisheries for Crystal Lake are noted as "Not Assessed". Crystal Lake is the source of all of the Atlantic smelt in the Great Lakes. It has also been the subject of numerous planting of trout and salmon and of numerous fish surveys by MDNR going back into the early 1900's. The "Fish Consumption" designation of "Not Supporting" (PCB in Fish Tissue), as interpreted by present regulatory guidelines is true only for certain species and is exaggerated extrapolated to all species without caviat.

The Designated Use of Cold Creek as Fully Supporting "Navigation" (?) is also rather strange given that essentially all of the reaches of its three subwatersheds are very shallow (ankle-knee deep) "wadeable" waters, and the lower reaches converging at the Sediment Basin are channelized irrigation ditches or enclosed pipes. Is the interpretation of a "nexus" in play?

The Crystal Lake Outlet (while not within the Crystal Lake Watershed) also has a Designated Use as Fully Supporting "Navigation" (?) which is even stranger. This is a highly intermittent stream that is very dependent upon the discharge from Crystal Lake that can range from a raging torrent to an ephemeral stream with essentially no flow. Furthermore, this stream meanders through wetlands with dense and overhanging brush. It would be extremely difficult to wade no less navigate.

We recommend that all items listed under HUC 040601040305 be reviewed. Their place names and physical dimensions should be corrected where appropriate to reflect actual topographic delineations. Their Designated Uses should then be reviewed to reflect all available assessment data.

AUID 040601040305-03 Crystal Lake FRESHWATER LAKE 9667.7875 ACRES (vs. 9,854 A)
Vicinity of Benzonia and Beulah

Crystal Lake is a large freshwater lake. The area included here, 9667.7875 Acres (insignificant figures again), does not correspond with that determined several years ago by the CLWA in cooperation with MDEQ, TetraTech MPS, using the MIRIS data, and independently confirmed by both USGS and by GLEC (Traverse City) of 9854 A! The latter value has been used extensively in a local educational program, the "Crystal Lake 'Walkabout'", now in its 15th year with some 3,500 participants. There is also a compilation of http://www.clwa.us/about_watershed.htm#Facts

The distinction "Vicinity of (the Villages of) Benzonia and Beulah" while partially correct, is misleading in the other end of the Lake is 8.1 miles distant! The other end of the Lake is actually in the "Vicinity of (the City of) Frankfort" although this City is in another watershed.

AUID 040601040305-04 CRYSTAL LAKE BELLOWS BEACH AND LAKE SHORELINE
(cps inconsistent with lc of other subtitles).

The significance of this fragment is unclear since it is also a small but integral part of AUID 040601040305-03 Crystal Lake. It is also not on the "west end of the Lake", but more "south" than "west". It is associated, however, with its own subwatershed.

AUID 040601040305-04 CRYSTAL LAKE SOUTH SHORE NEAR BEULAH BEACH AND LAKE SHORELINE (cps inconsistent with lc of other subtitles).

The significance of this fragment is unclear since it is also a small but integral part of AUID 040601040305-03 Crystal Lake. It is also not on the "south shore" of the Lake, but more "south" and "east". It is also unclear whether this fragment is associated with any subwatershed.

AUID 040601040305-NA Unassessed Rivers/Streams in HUC 040601040305 RIVER 0.290801 (???)

This entire entry is unclear. Cold Creek (listed as AUID 040601040305-02) is the largest tributary to Crystal Lake and there are other smaller tributaries (#4-17). Outlet Creek (listed incorrectly within the Crystal Lake Watershed as AUID 040601040305-01) is also small. None are navigable. They have been interpreted as "wadeable" for purposes of assessing benthic invertebrates and stream habitat, but fall into much higher Stream Classes than the Betsie and Platte Rivers. Water for historical agricultural purposes within the Watershed is almost exclusively derived from wells and not these small and often intermittent "streams" with variable flows. There are no known industrial uses derived from these "streams".

AUID 040601040305-NAL Unassessed Lakes in HUC 040601040305 Freshwater Lake 17.0499 Acres

Lakes only 'assessed' for Navigation, Agriculture, and Public Water Supply. This entry is also rather unclear. It may pertain to "Round Lake", a small lake known by this name and of the same size located near the north shoreline of Crystal Lake, near Herdman's Bay (#11 on CLWA map). "Round Lake" was once an extension of this bay before the level of Crystal Lake was drastically lowered back in 1873 during a breach of the Outlet (known widely as the "Tragedy of Crystal Lake"). Although "Round Lake" can be used for "navigation" with portable craft, it is not a source for water for agricultural purposes being entirely surrounded by woods and wetlands. It is not used as a "Public Water Supply". Similarly, Crystal Lake is not a "Public Water Supply". The Villages of Beulah and Benzonia derive their drinking waters from wells. They collect and divert their wastewaters to treatment lagoons located outside the Crystal Lake Watershed. The riparian owners elsewhere around Crystal Lake have private wells and septic systems.

Draft Appendix C: http://www.michigan.gov/documents/deq/Appendix_C_222678_7.pdf

Beginning at page 274/471:

040101040305 Crystal Lake Outlet (should be Crystal Lake Watershed) (see Appendix B-2 comments)

AUID 040601040305-02 Rivers/Streams in HUC 040601040305

AUID 040601040305-03 CRYSTAL LAKE FRESHWATER LAKE 9667.7874 ACRES (vs. 9,854 A)
Vicinity of Benzonia and Beulah

The comments and criticisms raised for Appendix B-2 also apply by reference to these items. A different area, and different interpretations for Crystal Lake are widely used at the local level!

Draft Appendix D: http://www.michigan.gov/documents/deq/Appendix_D_222679_7.pdf

MI081801D CRYSTAL LAKE FRESHWATER LAKE 9711 ACRES to 9667.8 ACRES (?) (At page 17/26).

Why was the area of Crystal Lake changed? We have been actively promoting the area of 9,854 A to MDEQ for many years! We have been addressing this value as a correction to the 9,711 A figure for quite some time. Now a third spurious area of 9,668 A has magically appeared (?).

MI081801H CRYSTAL LAKE BELLOWS BEACH INLAND LAKE SHORELINE 0.06 MI to 0.2 MI (?)

Why is this listing still included? It is our understanding that any outstanding issues have been resolved.

Crosswalk table of 12-Digit HUC, 2008 Assessment Unit ID, and corresponding 2006 WBID.

The following are specific to the Crystal Lake Watershed:

12 Digit HUC	AUID	WBID
040601040305	040601040305-01	MI081801A
040601040305	040601040305-02	MI081801B
040601040305	040601040305-03	MI081801D
040601040305	040601040305-04	MI081801H
040601040305	040601040305-05	MI081801I

We suggest that this table requires some changes to conform with other comments noted above.

1. Outlet Creek Subwatershed (HUC 040601040305-01)

This entry should be removed from this section and moved to HUC 040601040306.

2. Cold Creek Subwatershed (HUC 040601040305-02)

This entry should be reassessed in light of the unreviewed studies cited above.

3. Crystal Lake (HUC 040601040305-03)

This entry has an incorrect area for the Lake. The assessment is incomplete and needs to reflect water quality monitoring contained in many other studies.

4. Crystal Lake Bellows Beach (HUC 040601040305-04)

The length(?) of 0.2 mile is unclear and does not relate recognizable part of the subwatershed. (The "Beach" designation may refer an old and obsolete regulatory action involving groundwater?) This entry should be redesignated as Bellows Creek, a subwatershed of the Crystal Lake Watershed.

5. Unassessed Rivers/Streams (HUC 040601040305-05)

The lake shoreline length(?) of 0.2 miles is unclear and does not relate to any recognizable part of the subwatershed. (The "Beach" designation may refer to an old and obsolete regulatory action involving coliform?).

6. Subwatersheds (Not Otherwise Specified?) (HUC 040601040305-NAL)

The river(?) shoreline length(?) of 0.29 miles is unclear and does not relate to any recognizable part of the subwatershed. The entry could not be related to any known subwatershed. This entry may be reissued as a "catch-all" for all other tributaries and subwatersheds. There are several Subwatersheds with tributary creeks around Crystal Lake, smaller than the branches of Cold Creek, that may merit their own separate designations, e.g. Burrows Creek, (#9), Nichols Creek (#14), Harris Creek (#15), and Mitchell Creek (#17).

7. "Freshwater Lake" (HUC 040601040305-NAL)

This entry should merit a better subtitle, i.e. Round Lake, with its own designation and not NAL. The water quality of this subwatershed (#11) and also Crystal Lake were assessed in a comprehensive water quality investigation conducted by USGS for the SBDNL. (Whitman et al., Status and trends of selected inland lakes of the Great Lakes Cluster National Parks, 2002, 310 pp. <http://www.glsc.usgs.gov/files/reports/InlandLakesReport.pdf>)

--CLWA/022508

From: "Wade, Molly" <MLWade@a2gov.org>
To: "Sarah LeSage" <lesages@michigan.gov>
Date: 2/20/2008 4:46:31 PM
Subject: RE: one more question

Thanks Sarah

-----Original Message-----

From: Sarah LeSage [mailto:lesages@michigan.gov]
Sent: Wednesday, February 20, 2008 2:16 PM
To: Wade, Molly
Cc: Jason Smith
Subject: Re: one more question

Molly,

Thanks for contacting us regarding your questions and concerns with the draft 2008 Integrated Report. Jason Smith, co-author of the report and Assessment Database manager, will send you additional data for assessment units in the Huron River watershed. In addition, Jason mentioned that location information (stream name) has been entered by hand for assessment units with the description like "Includes Miscellaneous Waters within HUC." This information will be included in the final list and Jason may be able to provide that information to you also.

As you can imagine, there are many ways we can present this important listing information. A list of TMDLs by year is just one of those lists we considered generating. As part of the draft 2008 IR, Jason compiled the TMDL schedule list for years 2008, 2009, and 2010 only. That draft list was 67 pages long and is attached if you are interested. We may generate the complete list of TMDLs arranged by year and post it on the website with the final report.

Thanks again for your comments. Sarah

Sarah Wolf LeSage
Aquatic Biologist
Upper Peninsula Unit
Surface Water Assessment Section
Michigan DEQ Water Bureau
(517) 241-7931
lesages@michigan.gov

>>> "Wade, Molly" <MLWade@a2gov.org> 2/20/2008 11:44:13 AM >>>
Hi Sarah,

One more question/comment on the report

At the end of the report it says that you will develop 129 TMDLs in 2008, 50 in 2009 and so on (table 9.12 pg 79 of report)

I know you mentioned that you're switching over to a format to work in GIS, but will there at least be a list of these projected TMDLs by waterbody? You can run through the appendices and find them, but it's pretty cumbersome. Just having a list of the projected TMDLs would be extremely helpful for many communities to use for an at-a-glance list

and especially for use until the switch to a spatially based list is completed.

Thanks

Molly Wade

Water Quality Manager

Systems Planning Unit, Public Services Area

City of Ann Arbor, 100 N. 5th Ave, Ann Arbor, MI 48107

734-996-3275

mlwade@a2gov.org

From: "Alex J. Sagady & Associates" <ajs@sagady.com>
To: <lesages@michigan.gov>
Date: 2/24/2008 2:22:40 AM
Subject: Comment 1 on 303d list

It is impressive how devoted the MDEQ Water Bureau water quality planning staff is to the current Granholm Administration's goal of getting Michigan citizens used to living with dirty, impaired waters and violating the Clean Water Act in the process -- be less worried through being unaware of dirty water problems.

While the Granholm political people, the top management in the MDEQ and the line workers in the Water Bureau would never agree to it being described or cast in this way, nevertheless that is what is going on here with the year 2008 MDEQ Section 303(d) Impaired waters report just published on January 28:

<http://www.michigan.gov/deq/0,1607,7-135-3313-184170--,00.html>

The purpose of the Section 303(d) report is to delineate which waters are impaired and are violating water quality standards and for what reason and what planning and regulatory decisions must take place to address these problems.

The new year 2008 Draft Impaired Water List has hidden much of the major policy decisions in a mass of database tables, but look closely and you may begin to see how MDEQ is using this process to escape accountability on cleaning up Michigan's waters.

The 2008 report shows many new areas in the first 7 pages of Appendix D with new dioxin, pathogen and mercury contamination problems since the 2006 report, but MDEQ's draft 2008 report doesn't show the name of the watercourses and expects you to take a 14 digit hydrological code and try to find out yourself where it is. So much for being public friendly, but I fear the real purpose is to obscure public disclosures of such impairment. Such obfuscation serves political, corporate, agriculture and development interests, but not the public interest since it frustrates a primary purpose for why Congress enacted Section 303(d) in the first place -- a motivation for public pressure to clean up dirty waters. It would take hours and hours to go through the first 7 pages of Appendix D and identify the streams, rivers and lakes where MDEQ now says there are newly discovered mercury, PCB, pathogen, chlorinated dioxin/furan and other problems it discovered in the last 2 years.

A few listings for chlorinated dioxin/furan (PCDD/PCDF) I found in the new problem list...
PCDD/PCDF in South Branch of Macatawa River, Morrow Lake/Kalamazoo River;
 Davis Creek-Kalamazoo River; Spring Brook- Kalamazoo River; Silver Creek -
 Kalamazoo River; TRowbridge Dam and Pine Creek - Kalamazoo River; Tannery
 Creek - Kalamazoo River; Lake Allegan/Dumont Creek - Kalamazoo River;
 Averill Creek, Prairie Creek, Snake Creek and Tittabawassee River;
 Lingle Drain, Sarle Drain, Shaffner and Major Drain and Tittabawassee River;

Many new listings in the last two years for mercury, PCBs and other pollutants are shown, but it would take hours to identify them by the common name

*Note: this comment
 was also posted on
 Enviro-Mich on 1/29/2008.*

*A response was
 provided by
 Bob McCann on
 2/8/2008 on Enviro-Mich*

of the river, lake or stream because MDEQ didn't provide that.

Other states produce easily viewed maps graphically showing impaired water features under Section 303(d) of the Clean Water Act, but not Michigan -- the Great Lakes state.

In the 2006 report, MDEQ designated 3263 miles of rivers and streams under Category 4c, which means the fish and biotic communities are impaired because of so-called "management" through channelization by drain commissioners. Allegedly, no pollutant is involved, even through such "management" causes significant turbidity and siltation that destroys aquatic habitat for fisheries and beneficial aquatic organisms. Michigan has a rule against causing excessive turbidity and siltation in its narrative water quality standards. Many southern Michigan rivers are choked with turbidity from poor practices from agricultural and development sources. But Michigan isn't showing this to be impaired water quality from a pollutant for thousands of river and stream miles in Michigan which have these impairments.

Now, in year 2008, MDEQ proposes to designate over 6900 miles of rivers and streams under Category 4c to be the playland for county drain commissioners to create agriculture and development sewers out of Michigan's streams and rivers---- more than a doubling from year 2006.

In year 2006, no other Great Lakes state had anywhere near as many stream and river miles under category 4c as Michigan had, and now Michigan DEQ in 2008 proposes to more than double these river and stream sacrifice areas.

Because MDEQ's water database people mixed the table displays of categories 5, 4a, 4b and 4c together, it is impossible to easily determine which streams and rivers are the ones to be newly condemned to Category 4c and non-accountability for fish and biotic damage by drain commissioners.

Even though development, agricultural and drain commissioner activities cause pollution problems with turbidity and sediment, the failure to designate such watercourses under Category 5 as impaired and needing a total maximum daily load plan means that all of these entities, as well as industry and municipalities, escape requirements for water quality based effluent limitations for total suspended solids.

When MDEQ considers beneficial use impairments for purposes of partial and total body contact recreation, Water Bureau water quality planners have put blinders on when addressing serious water quality problems/impairments from nutrients in Saginaw Bay and Western Lake Erie.

In MDEQ's 2008 Draft report, the evaluation process for beneficial use impairments as to partial and total body contact recreation (i.e. wading and swimming) is absolutely restricted to two and only two factors....whether there is the presence of untreated combined sewer overflows/ untreated sewage and the results of e-coli monitoring.

MDEQ water quality planners sitting in Constitutional Hall contemplate

for citizens on the shores of Western Lake Erie and Saginaw Bay and make no finding that there is no obvious water quality impairment for partial and total body contact recreation -- saying it is "Not Assessed".....when it is quite apparent that such waters are tragically impaired.

They do look at hydrological subunit designated Saginaw Bay beach areas, but mostly it is either "Not Assessed" or "Insufficient Information."

Since they don't have comprehensive e-coli data on the beach areas and don't have indications of raw sewage or untreated CSO's, their decisionmaking calculus fails to consider the mounds of algae washing up on the shores, and thus allows an MDEQ finding that there is no water quality impairment for partial or total body contact recreation in Saginaw Bay and Michigan waters of Western Lake Erie.

Somehow, MDEQ water quality planner forgot to include as a criteria for recreational water quality degradation the aspect of an esthetic recreational experience of water quality....
.....that turbid waters with obnoxious odors and piles of decaying algae constitute water quality impairments. Any child visiting Saginaw Bay knows this, but MDEQ Water Bureau somehow does not....and does not include such consideration as water quality impairment findings for Saginaw Bay for impairments affecting recreation.

MDEQ does acknowledge that a toxic algae, microcystist, is interfering with public water supply intakes....introducing objectionable tastes and odors from algae brought on by excessive nutrients. But MDEQ then refuses to say that this is a Category 5 water quality impairment, saying that a 27 year old alleged water quality plan for Saginaw Bay and Western Lake Erie prevents the need for a total maximum daily load plan for nutrients in the Saginaw Bay watershed. Thus, MDEQ sets the stage for refusing to impose water quality based effluent limitations on municipal, industrial and agricultural sources of phosphorus pollution that area actually required under the Clean Water Act.

What illegal bureaucratic nonsense!!

=====
Alex J. Sagady & Associates <http://www.sagady.com>

Environmental Enforcement, Permit/Technical Review, Public Policy,
Expert Witness Review and Litigation Investigation on Air, Water and
Waste/Community Environmental and Resource Protection
Prospectus at: <http://www.sagady.com/sagady.pdf>

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(517) 332-6971; (517) 332-8987 (fax); ajs@sagady.com

From: "Alex J. Sagady & Associates" <ajs@sagady.com>
To: <lesages@michigan.gov>
Date: 2/24/2008 2:26:28 AM
Subject: comment 2 on 303d list

Bay City Times examines Michigan DEQ's failure to list the Saginaw Bay watershed as being impaired for pollution by nutrients and failure to require total maximum daily loads and water quality based effluent limitations required by the Clean Water Act to control phosphorus. Front page article....

http://blog.mlive.com/bctimes/2008/02/saginaw_bay_doesnt_have_an_algae_problem_deq_says.html

Note, there are other issues raised by MDEQ's latest draft listing under Section 303d of the Clean Water Act:

1. Dioxin contamination in parts of the Kalamazoo River Watershed
2. Michigan DEQ newly listing about 3800 new river and stream miles as being presumed as impaired because of drain commissioner activities where there will be no pollution-based water quality planning.
3. Failure to have a placeholder in the evaluation process for all violations of narrative water quality standards.
4. Failure to consider that excessive turbidity, odors, nuisance algae and other narrative water quality standard violations cause impairment to total and partial body contact recreation and impairment of water-based recreational esthetics, including failure to enforce Michigan narrative water quality standards for turbidity.
5. Failure to adopt numerical water quality standards for nutrients, like phosphorus and nitrates, recommended by US EPA for the distinct eco-regions in Michigan.
6. Failure to impose water quality based effluent limitation in Michigan's general permit system for concentrated animal feeding operations, stormwater, etc.

=====
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=====

From: "Robert McCann" <mccannr@michigan.gov>
To: <enviro-mich@great-lakes.net>
Date: 2/8/2008 4:14:37 PM
Subject: Re: E-M:/ Michigan DEQ's Impaired Waters List

Enviro-Mich message from "Robert McCann" <mccannr@michigan.gov>

Alex -

I know this is a bit late, but I did want to take the opportunity to respond to your posting on behalf of the DEQ and at the request of Director Chester. I realize this response is quite lengthy, but you made a number of comments that were fundamentally wrong and unfair to DEQ staff that I feel it is necessary.

You make the claim in your post that the DEQ produced the integrated report and list of nonattaining waters with some sort of malicious intent, whether that be to hide information or to serve some other unclear purpose, but quite simply, nothing could be further from the truth. Michigan's integrated report was put together by technical staff (scientists and engineers) from the DEQ's Water Bureau through comparison of all of the available monitoring data for water bodies with the water quality standards as described in Rule. Staff went to great lengths this year to make sure that all decisions on whether to list or not list a water body were completely supported by monitoring data.

The draft report indicates that at least 67% of total river miles, 36% of inland lake acres, and 100% of the Great Lakes acres and connecting channels do not attain water quality standards for one or more designated use. One reason for the large number of nonattaining waters is Michigan's excellent water quality monitoring program. For example, Michigan is one of the few states that routinely uses clean monitoring techniques and ultra low level detection analytical methods to measure PCB, Mercury, and trace metals in water, and then use that data to make decisions regarding the attainment status of our waters. Every river mile assessed for attainment of the PCB water quality standard using this approach has been found to exceed water quality standards. Clearly, these statistics do not support your claims that we have failed to adequately characterize Michigan's impaired waters, and while you attack the approach used by the DEQ to identify waters not attaining standards, including the partial and total body contact designated use, you did not provide any comments when that same listing methodology was available for public comment, which would have been the time to register any concerns you may have had.

You also imply that DEQ staff have misinterpreted narrative water quality standards and instead substitute your own interpretation of the standards that our staff, who work with these standards and conduct detailed water quality assessments on a routine basis, would simply find incorrect. For example, your claim that we have failed to adopt federal nutrient standards is off base due to the fact that the USEPA has not requested or mandated states to adopt the federal recommendations. DEQ staff are working on the development of specific, numeric nutrient standards but it is a complex and time consuming task, and so far, the

USEPA has been very pleased with our progress. However, even if we complete the development of the nutrient standards, we will be unable to adopt rules because of the lack of rule authority in Part 31. Numeric standards, when available, will be used along with water quality data to identify water bodies impaired due to nutrient enrichment.

Additionally, the designation of certain waterbodies in the draft report as not attaining standards but also not requiring pollutant load reductions plans is done so because, in certain cases, the cause of non-attainment is drain maintenance, not a pollutant, and therefore developing a load reduction plan would simply serve no purpose.

Finally, you make comment on the lack of maps, the difficulty in using the lists due to the new format, and the water body naming conventions. We recognize that for some, these may be problematic but take exception to your off-the-mark speculation as to why the difficulties exist. The DEQ undertook extensive data management changes since the 2006 Integrated Report that will eventually make the tracking and reporting of water quality status in Michigan easier, more useful, and more public-friendly than the previous system allowed. For example, the new data management system will facilitate providing the maps that you, as well as our own staff, desire. Implementing these changes was a monumental undertaking and necessitated a whole-sale update of water quality records, implementation of a new georeferencing system, and evaluating water quality data in support of a true multiple category system. As with any new data management system, it will take some time to work out all the details, however, we are continuing to work on them to ensure that the products that will be available to the public over time are as useful as possible. We are hoping to have maps available for the final report.

In summary, the DEQ absolutely encourages public input and strives to be respectful of that input. In return, we simply ask the same of you, that you provide comments in a fair and helpful manner. Name calling and accusing DEQ staff of malicious intent is neither helpful nor fair. In the future, instead of making assumptions I'd encourage you to ask questions of us. We're more than happy to assist you, or anyone else, in getting the information you need or answering any questions you might have. If you are unsure of whom to ask, you are more than welcome to directly contact me and I can certainly help find your answer.

Thanks

Robert McCann
Press Secretary
Michigan Department of Environmental Quality
Phone: 517-241-7397
Fax: 517-241-7401
Email: mccannr@michigan.gov

>>> "Alex J. Sagady & Associates" <ajs@sagady.com> 1/28/2008 3:31 PM

>>>

Enviro-Mich message from "Alex J. Sagady & Associates"
<ajs@sagady.com>

It is out....Michigan's Impaired waters DRAFT list for 2008

<http://www.michigan.gov/deq/0,1607,7-135-3313-184170--,00.html>

Unlike Ohio and other states, Michigan DEQ still seems utterly incapable of producing maps that graphically show what rivers, streams and lakes (or portions thereof) are impaired and polluted.

This new report mixes up all designations for Categories 5 and 4a, 4b and 4c into a single list, instead of separating them out as was done in previous years. Good luck in your review.

The Biggest News.....

Michigan DEQ fails to correct its practice of not properly considering Michigan's narrative water quality standards for turbidity and nutrient impairments, leaving watercourses impaired by these pollutants as being unlisted and not impaired.

Michigan has not adopted EPA's recommended standards for phosphorus and nitrates as nutrients. There is no evidence of Michigan considering that algae, slimes and other objectionable aspects of narrative impaired waters affect MDEQ's decisions as to water recreation uses, except for the presence of untreated sewage.

Michigan DEQ acknowledges that algae/nutrient/phosphorus/eutrophication problems of Saginaw Bay affect public water supply taste and odor, and..... but Michigan DEQ fails to produce a finding that nutrient impairments and nuisance algae affect any impairment designation, other than for public water supply. Michigan DEQ then fails to designate Saginaw Bay and its surrounding phosphorus contributing watershed as being an impaired water body for nutrients.and then says the taste/odor problems will go away by year 2028.

Although MDEQ lists Lake Erie waters for dioxin and PCB fish contamination, there is no recognition that Lake Erie is impaired for nutrients.

=====
Alex J. Sagady & Associates <http://www.sagady.com>

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ENVIRO-MICH: Internet List and Forum for Michigan Environmental
and Conservation Issues and Michigan-based Citizen Action. Archives
at
<http://www.great-lakes.net/lists/enviro-mich/>

Postings to: enviro-mich@great-lakes.net For info, send email to
majordomo@great-lakes.net with a one-line message body of "info
enviro-mich"

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majordomo@great-lakes.net with a one-line message body of "info enviro-mich"

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From: Laura Ogar <logar813@yahoo.com>
To: Sarah LeSage <lesages@michigan.gov>
Date: 2/25/2008 4:53:36 PM
Subject: Comments on 303(d) draft; Saginaw River/Bay

Please accept these comments on the Proposed 303(d) report. I have reviewed the Draft report and its various Appendices and have the following comments:

General:

DEQ must do more to educate the public to get the message out about the significance of the Report - what it does, what it means and what data it includes, and how it fits into the overall Clean Water activities charged to DEQ. Public Comment should be actively sought, not passively through a notice in the local newspapers. There is a very large base of interested persons concerned about the water quality of the Saginaw River and Saginaw Bay in this region - DEQ should have a public workshop or other public meeting to explain the 303(d) report, what it means, what data is used, its various elements, and then get input from knowledgeable local resources beyond existing DEQ databases.

Report and its Appendices are far too difficult to sort through to find 'your' waterbody of interest, its use designation, how it is impacted. I understand its a work in progress as this current format is better than it has been in the past, however more quick view linkages (using e-data mapping) are needed as it is far too difficult for the average person to put the various pieces together cogently.

Specific to Saginaw River/Saginaw Bay System

Nutrients/phosphorus

The communities along the Saginaw Bay struggle with muck along the shoreline affecting the use and potential use via the marketability of our beaches. Our community's Convention and Visitors Bureau no longer promotes our community as a Bayfront destination because of the terrible condition of our beachfront. The algae accumulation looks terrible, it gives off offensive odors, and it has been sampled showing high levels of e-coli from human sewage and livestock. Though the federal test methodology for primary swimming is to test in @ 3' of water, responsible families will not, cannot walk out through the 15" thick muck mats to get to the same water which was tested and may be safe for swimming. The algae accumulation results in safety issues both from direct contact with the e-coli in the muck as well as due to physical entrapment due to the depth, thickness of the muck acting as quicksand.

We are told by our colleagues at DEQ who we work closely with that the algae is the result of phosphorus and nutrients in the Bay, serving to increase Zebra and Quagga mussels and phosphorus. Algae and nutrient loading significantly impacts many uses and potential uses of the Saginaw River and Saginaw Bay and should be included, shown on the 303(d) list.

Fecal Coliform/Pathogens

The Draft report is missing reference to impacts to use from fecal coliform bacteria and pathogens and the 303(d) report must be amended to include these impacts. The lower Saginaw River flow contains frequent sewage overflows from upper reaches of the system, from large and small communities located in Saginaw and Genesee counties. Some of these overflows are partially treated combined flows (CSO), some are untreated CSO's and sanitary sewage (SSO) overflows as well. The community is aware of CSO/SSO reporting in the local newspaper and has come to learn that even a minor rain event can trigger millions of gallons of these overflows. Common knowledge dictates that we then adjust our use of these waters - we don't take our families to the State Park beach for days afterwards, we don't jet-ski following a rainstorm no matter how nice the weather might be, we are reluctant to jump in to nearshore waters from our boats for water skiing or swimming.

We also feel compelled to double-rise any fish we might catch (in tap water) before we fillet it so we don't spread pathogens into the fish. Of course limiting our meal consumption to no more than once a

week due to the other toxics in the fish.

DEQ is aware of these CSO/SSO events therefore omitting fecals/pathogens from the list of pollution impacts directly harming and directly reducing our use of the Saginaw River and Saginaw Bay is puzzling. The millions of gallons of wastewater discharges contain various levels of fecal coliform and other pathogens and helminths not affected by chlorination and they are discharging to our local waters. The fact that they exist in the same reaches of waterway that we swim and recreate and serves as our drinking water supply demands the inclusion of these pollutants to the list impacting our waters. Our drinking water intake structure is located in the Bay in relatively near shore shallow waters and is vulnerable to pollutants from the Saginaw River loading. (Homeland security issues prevent identification of the exact location.) Data exists in raw water analysis at the water treatment facility to show both bacteriological and dissolved solids/nutrient

loads in the water column when local wind conditions change water currents directing river contributions to the drinking water intake.

Use Designations

The Draft report must be clarified to show the lower Saginaw River and Saginaw Bay as designated for drinking water use - as these waters serve more that the 100,000 residents in the area. Our drinking water intake structure is located just offshore in relatively shallow waters of the Bay in waters which are directly impacted by the Saginaw River. The water treatment plant has data to show raw water conditions - and how those conditions change (with bacteria and dissolved solids/nutrients) when wind conditions direct water flow from the Saginaw River towards the intake structure.

Thank you for the opportunity to comment.

Laura Ogar, Director
Environmental Affairs and Community Development
Bay County
515 Center Avenue
Bay City, Michigan 48708
989-895-4196 work
989-893-8893 home

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CC: laura ogar <logar@baycounty.net>

From: "Mike Bristow" <mikebristow2916@gmail.com>
To: <lesages@michigan.gov>
Date: 2/13/2008 5:57:50 PM
Subject: water comment

Our ELECTED officials in the end are going to be held accountable for a lack of action not taken to force the DEQ to stop the games.

From: <ReinhartTJ@aol.com>
To: <lesages@michigan.gov>
Date: 2/13/2008 5:57:55 PM
Subject: Saginaw Bay

Sarah,

With all due respect, how can Saginaw Bay be deemed OK? I live in OH and vacation in the area quite frequently, at least I used to. The water quality of the bay is disgusting. How did this matter slip through the MDEQ's fingers? I'm appalled!

With more and more pollution all over the nation you'd think that SOMEONE would take the lead to promote a safe and healthy vacation environment. Recreation may be all you have left when all the automotive jobs leave the state. I'd think you would be proactive on this issue.

Sincerely,

Teri Reinhart

*****The year's hottest artists on the red carpet at the Grammy Awards. Go to AOL Music.
(<http://music.aol.com/grammys?NCID=aolcmp00300000002565>)

From: "Gary Binkley" <augrester@gmail.com>
To: <lesages@michigan.gov>
Date: 2/14/2008 2:18:16 PM
Subject: Saginaw Bay and Algae

Hello,

I'm commenting on the Algae problem in Saginaw Bay. We live on the AuGres River about 3/4 mile up river from the Bay and regularly take out boats downriver to the Bay. We also have friends who live on the Lake Huron side of Point Lookout, and others near Bay City.

Hearing that the Saginaw Bay was not on the DEQ's list of waterways with algae problems, I was shocked. We don't get it as bad here as they do in the lower area's, but we've had at least 1 to 2 weeks of summer when the beaches were unusable because of the 3 foot of stinking algae piled on the beaches. I can't imagine living with that kind of problem for most of the summer as those downstate do. But, I'm fairly sure that as the problem grows, it will get worse here.

Of even more concern here, are the invading exotic grasses. If something isn't done soon, these grasses will close navigational waterways, such as our river channel. They have already destroyed the beauty of the shoreline, by blocking the view to nearly everything.

The Great Lakes are in HORRIBLE condition. The water in Lake Huron is near record lows, and dredging has not been kept up. Thousands of obstructions are now near the surface, making navigation much more hazardous. Algae is but one of the major problems with Lake Huron. Between low water, pollution, and invasive species, we are at severe danger of losing our designation as a "Water Wonderland".

It's a sad situation when the powers designated to protect these great resources, have let them degrade in this manner!

Gary Binkley
AuGres, Michigan

From: Martin Mayotte <mayottemj@yahoo.com>
To: <lesages@michigan.gov>
Date: 2/14/2008 5:59:33 PM
Subject: Depressing Bay

It's extremely depressing to see families, wildlife, and sportsmen enjoy or survive on the Saginaw bay and its watersheds.

To see reports that our government is ignoring this issue is hard to believe!

Fish cannot survive with the problems that the algae and chemicals are causing in the Bay. Several species of fish that we see on the west side of the state (steelhead, salmon) are found on lake huron, but not in the quantity and quality as they see all along the western shoreline.

Why? Well because the prey fish are not there anymore!

Some people depend on fish for food and for a living. If they leave or get infected that means our health is in threat!

Please do something about this issue!

Thanks!

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From: bob durivage <bobdurivage@yahoo.com>
To: <lesages@michigan.gov>, <bobdurivage@yahoo.com>
Date: 2/17/2008 6:22:26 PM
Subject: Algae

I ask that you include the algae bloom problem in the Saginaw Bay/western Lake Erie areas in the Great Lakes Impaired Waters Report. This problem is not projected to go away until there are changes in fertilizer use and ballast discharge procedure of cargo vessels. This problem affects fish, birds, and beach quality. We can no longer be in denial of environmental problems lest they become catastrophes. We must accept the consequences and also hold responsible those that have caused the problems.

I thank you.

Robert du Rivage
Michigan resident

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RECEIVED
WB-SWAS

FEB 22 2008

February 18, 2008

Sarah LeSage
Michigan Department of Environmental
Quality, Water Bureau
525 West Allegan Street
PO Box 30273
Lansing, MI 48909

Dear Sarah,

Enclosed are copies of articles from the Bay City Times which tell me that "partially" treated sewage from all local municipalities is the primary reason why the Bay City State Park is a total mess. Don't blame the farm animals – blame ourselves.

Sincerely,



Paul Pfenninger
216 Kirby Street
Bay City, MI 48706
(989) 225-6719

*Enclosures were
received*

*Enclosures are
available upon request
from MDEC.*

From: <celftman@airadvantage.net>
To: <lesages@michigan.gov>
Date: 2/20/2008 1:26:37 PM
Subject: WHY???????????

After many months and many meetings in which the DEQ took part never once did they bring up the items that are in the Impaired Waters Report. what they did was stand around with an arrogant attitude and never gave a straight answer on any thing. Why does it have to be like this? What is your fear of working with concerned people in the state of Michigan? There are problems in Saginaw Bay, I know I live there and am a Huron County Commissioner. The sad part is that you also know there are problems but you must be in denial, we are not trying to make anyone look bad we are trying to get some results and you seem to be trying your level best to see that it doesnt happen.

To break down your report it says, there is no problem in Saginaw Bay because of a program started in 1985 which was revised in 1991 neither of these programs worked according to your report and yet you say the problem we dont have will be solved by 2028. Can you see why the general public has so little faith and trust in government agencies. What you in effect are saying is that you are right and everyone else is wrong. How can Saginaw Bay be the most polluted area of the Great Lakes in one report and have nothing wrong in another? Many of the groups trying to do something would appreciate your help but we can get along very well without you and that is a shame.

Thank You,

Clark Elftman

Commissioner District 3

Huron County

From: Jeanne Place <jeanne_place@yahoo.com>
To: <lesages@michigan.gov>
Date: 2/21/2008 5:13:07 PM
Subject: Saginaw Bay Algae

Dear Ms. Lesages -

I'm from Linwood, Michigan - a tiny town between Bay City and Pinconning on the east coast. I'm unemployed like the other 10% of Michiganders in the northeast side of the state.

What do we have to offer in this area? How can we ever make a come-back? Manufacturing companies have left. Even in Pinconning, there seems to be more stores boarded up then open. People are leaving our area!

We do have ONE thing that could attract businesses or visitors - our shoreline. But, our shoreline is littered with muck and people can't even motorboat in the bay because the algae is so bad.

Our very lives are at stake. It's 2008 and the DEQ is working with a 1991 TMDL and nutrient strategy. I can't believe you can risk, not only the beautiful rivers and bay in the northeast Michigan area, but - the people.

Please, please - reconsider a re-evaluation of the Saginaw Bay.

Thank you for your time.

Sincerely -

Jeanne Place
204 N. Mackinaw Road
Linwood, MI 48634

Be a better friend, newshound, and know-it-all with Yahoo! Mobile. Try it now.

FEB 22 2008

Dear Ms. Hedage,

The DEQ's omission of the Saginaw Bay in its proposed impaired waters report is of concern to many of us who live here in the Bay City Area, areas immediately north thereof, and up in to the thumb region of our state. On a weekly and monthly basis we read of untreated and partially treated sewage being dumped in to the Saginaw River whenever there is even a modest rainfall. Tests find human waste in the muck along our shorelines. Beach and swimming warnings are routinely issued in the summer months. The smell along the river and shorelines becomes palpable on warm summer days.

Failure to acknowledge what so many of us see right in front of us makes the DEQ appear foolish. When the DEQ looks foolish its work and its word is not taken seriously and that is not good for any of us.

Bob Spuber

From: "deryman" <deryman@sbcglobal.net>
To: <lesages@michigan.gov>
Date: 2/22/2008 1:57:15 PM
Subject: THE TOTAL LAKE OF CARE FOR, AND THE HORRIBLE STATE OF THE WATER QUALITY IN OUR VERY NEGLECTED BAY, NEEDS IMMEDIATE ATTENTION BY THE STATE & FEDERAL GOVERNMENTS'

Ms. Sarah LeSage, MI Dept. OF Environ. Quality, Water

Bureau, 525 West Allegan Street

P.O. Box 30273

Lansing, MI48909-7773

I WAS APPALLED BY THE ARTICLE IN THE BAY CITY TIMES ON Wednesday, February 13, to read that that State DEQ sees no immediate problems with our water quality. Well Ms. Sara LeSage, you may live nowhere by the Bay, but I certainly do. I was 3 or 4 years old when they tore down the old roller coaster out at Wenona Park. I vaguely remember riding on it once and then it came down. Growing up in the '60's, my girlfriend's older sister would take the two of us out to get an hour's of sun on a nice Saturday afternoon, but even then, there was muck beginning to show up, and you didn't wade into the water because it wasn't clean enough. This was in 1965. Now flash ahead to the year 2008 and we are hearing that this plan you are continuing to work on, that was last updated in 1991 showed a slight improvement in 1985!!! And based on that little bit of improvement, it has caused you to decide THAT THERE IS NO MORE URGENCY in doing any cleaning up. From all I have read I can only ascertain that you have absolutely no interest in cleaning up our dying bay, that you do not care one iota about our local economy nor the State of Michigan's economy, because you are totally unwilling to take the steps that would save this body of water; along with: the fish that swim in it, the re-creators' who fish & boat & ski on it, and picnic on the beach. The very grave situation we face with each day's inaction on your part is the fact there are companies that won't come into this tri-county area with its rich resources because our State's bureaucracy is holding everything back. A beautiful sandy beach shoreline clean from end to end, would greatly draw people to it as a destination. Entrepreneurs' would flood in with options for new green types of businesses and technologies; our food base would clean up and so would our health. I beg you to listen to the Officials from the U.S. Environmental Protection Agency office in Chicago who also visited the bay area on Jan.31, calling the levels of algae here "excessive".

We have lived for many, many years with mounds of dead algae, or muck, that have been washing up on shorelines with increasing intensity in recent years. Some of the muck has tested positive for traces of human sewage and cattle manure. State regulators formed a regional effort called the Saginaw

Bay Coastal Initiative 2006 to find ways to deal with muck and other stressors plaguing the bay.

What I, and many, many of my neighbors want to see done is to set a TMDL, "Total Maximum Daily Load" for the bay, which would require municipal wastewater treatment plants to remove more phosphorous as part of their normal operation, and impose limitations on spreading animal manure or human biosolids on farm fields. I know Alex Sagady wants to see these actions taken immediately, and Eric Alexander says that Sagady has "valid positions" on all that he is arguing for.

So please, please get on the move to IMMEDIATELY START THE CLEAN-UP PROCESS FOR OUR VERY SICK SAGINAW BAY!!!!!! This is very near and dear to my heart and to my City. THIS IS A CODE RED EMERGENCY FOR THE SAGINAW BAY IN 2008!!

Sincerely,

Denise E Ryman

1938 Hatch Rd

Bay City, MI 48708

From: "Rozanne" <roznor1@chartermi.net>
To: <Lesages@michigan.gov>
Date: 2/23/2008 5:01:38 PM
Subject: Saginaw Bay water quality.

Beautiful Saginaw Bay - is this an oxymoron or what? Well, that wasn't always the case. My mother is 83 years old and when she was a young girl, Bay City State Park had one of the nicest beaches in Michigan. This, as almost everyone knows, is not the case anymore. The bay is dying at an extremely fast rate. It has become a cesspool for the entire Saginaw River watershed. If something is not done right now, all of us will lose this diverse ecosystem.

We need our elected representatives to secure funds to help restore the sewer systems in our cities to the highest standards possible.

We need our farmers and homeowners to cut back the use of fertilizers and chemicals used on lawns and farms. This is not something that should be done; it must be done if we are to bring Saginaw Bay back to what it could and should be - one of best fisheries and recreation areas in the United States.

Thank you,

Norm Monto

Bay City, MI

From: "Ray Vachon" <rayvachon@charter.net>
To: <lesages@michigan.gov>
Date: 2/25/2008 11:31:20 AM
Subject: Algae problems in Saginaw Bay

Good morning Ms. LaSage,

On Feb. 13, 2008 the front page of The Bay City Times says:
NO PROBLEM HERE?

DEQ list of waterways with algae problems doesn't include Saginaw Bay

As a shore line resident this is absolutely unbelievable! There have been days when the beach had several inches of "MUCK OR ALGAE" making it not only unsightly but unhealthy, as well. When our grandchildren visit they have been unable to play at the waters edge due to the accumulation of foul smelling muck.

As per the article the EPA has ruled the levels of algae here on the bay "excessive". However, the DEQ says there is not a problem with algae here, how ludicrous!

The article indicates there' a 1985 nutrient reduction stragedy in place for the bay which has not been updated since 1991. It would only be logical for the DEQ to either revisit the study or eliminate it entirely and start over!

Thank you,

Ray Vachon
1031 Brissette Beach Road
Kawkawlin, MI 48631

From: Michael Ingels <eriehiker@yahoo.com>
To: <LeSageS@michigan.gov>
Date: 3/2/2008 10:55:26 AM
Subject: Western Lake Erie: Impaired Waters List

Dear Sarah:

I am a longtime beach hiker and native of Monroe County. I am concerned that western Lake Erie was not included on the impaired waters list that will be forwarded to the EPA.

All it takes is a walk along Monroe County's shoreline to realize that something is wrong in the lake. Muck washes up on the shore on a fairly regular basis. This muck rots and smells. It often dries out and crunches when I walk over it. Water clarity is poor.

I am no scientist, but there is something wrong. So, I am more than a little bit concerned that response planning will not be conducted for what I believe to be an impaired waterway.

Please reconsider the DEQ decision and include western Lake Erie in the report.

Thanks!
Mike Ingels
1239 Country Club
Adrian, MI 49221
517-902-7442

BTW, I would love to take you hiking along the shore and show you the problems.

Be a better friend, newshound, and know-it-all with Yahoo! Mobile. Try it now.

Sarah LeSage - Mitchell Creek contamination, Antrim County

From: <nerak2822@aol.com>
To: <lesages@michigan.gov>
Date: 2/11/2008 9:35 PM
Subject: Mitchell Creek contamination, Antrim County

Ms. LeSage; I am a property owner immediately adjacent to the contaminated waterway Mitchell Creek in Milton Twp, Antrim County. We are most grateful that the contamination has been acknowledged by the State due to high levels of e Coli. This problem has seriously affected my family's use of our property over the last 2 years, and has greatly impacted our investment in Michigan property.

Please consider moving the testing review from 2015 to 2008. The contamination poses a serious health threat to us, our wells and our kids. We can't wait 7 years for your further help.

Thank you indeed;
Paul Clancy MD
3626 Joe Marks Tr
Kewadin, Mi
248-334-9116

More new features than ever. Check out the new [AOL Mail!](#)

THE MILTON NEIGHBORS
 A Michigan Not-for-Profit Corporation - Serving Milton and Torch Lake Townships
 PO Box 288, Kewadin, Michigan 49648

February 11, 2008

To: Sarah Le Sage, DEQ Water Bureau
 P.O. Box 30273
 Lansing, Michigan 48909-7773

From: Keith Termaat, President
 The Milton Neighbors

RE: Draft Sections 303(d) and 305(b) Integrated Report page 278 of 471,
 Mitchell Creek including tributary of 1.41 miles (HUC: 040601050702)

Dear Sarah,

The Milton Neighbors community group first reported E.coli pollution in Antrim County's Mitchell Creek in the summer of 2006. Our test results were vetted by MSU and the Tip of the Mitt Watershed Council as hazardous and dangerous to children. Our medical expert reported that E.coli levels up to 8300 cfu/100ml were life threatening to our children.

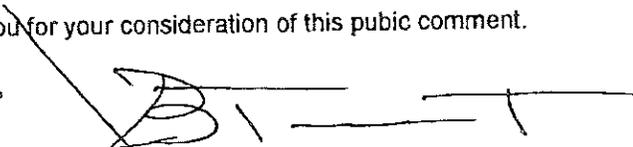
E.coli levels have come down substantially (see trend map) just downstream of the septage disposal site with the cessation of disposal operations in mid-January 2007. E.coli levels at Joe Marks Trail have come down by a lesser amount. E.coli levels at the GT Bay beach mouth of Mitchell Creek have not come down at all from 2006. This is where children are most likely to play. As DEQ reports, E.coli levels still do not support partial or full body contact. We are gratified that Mitchell Creek is now listed in 303(d) and (305(b) and strongly support the listing.

However, we must object to the 2015 timing of TDML and request a pull ahead to 2008 in light of the threat to public health, the presence of a septage disposal site and cow feed lot in the watershed, and the finding by Three Lakes Association (TLA) that 17 nearby creeks all met State E.coli standards (see 2nd map). The TLA study is evidence that background (i.e. wildlife) levels of E.coli are low and that Mitchell Creek is in all probability contaminated by other sources. Further, littoral drift south from the creek may have led to the first ever E.coli advisory posted last summer at Elk Rapids public beaches. The gravity of this matter is emphasized by frequent correspondence on Mitchell Creek to and from DEQ Director Chester.

The listing is in error with respect to creek length. The creek length should be listed as 1.41 miles not 1.14 miles. The DEQ E.coli monitoring Study reported on September 26, 2007 includes six (6) stations. The distance from station US-1 to DS-M is 1.41 miles as determined by GPS coordinates.

Thank you for your consideration of this public comment.

Regards,


 Keith Termaat, President

Cc: Sarah Le Sage fax: (517)373-9958

Board of Directors:

President: Keith Termaat - Vice President: Len Dillon - Treasurer: Larry Fata - Secretary: Pam Wehr
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143



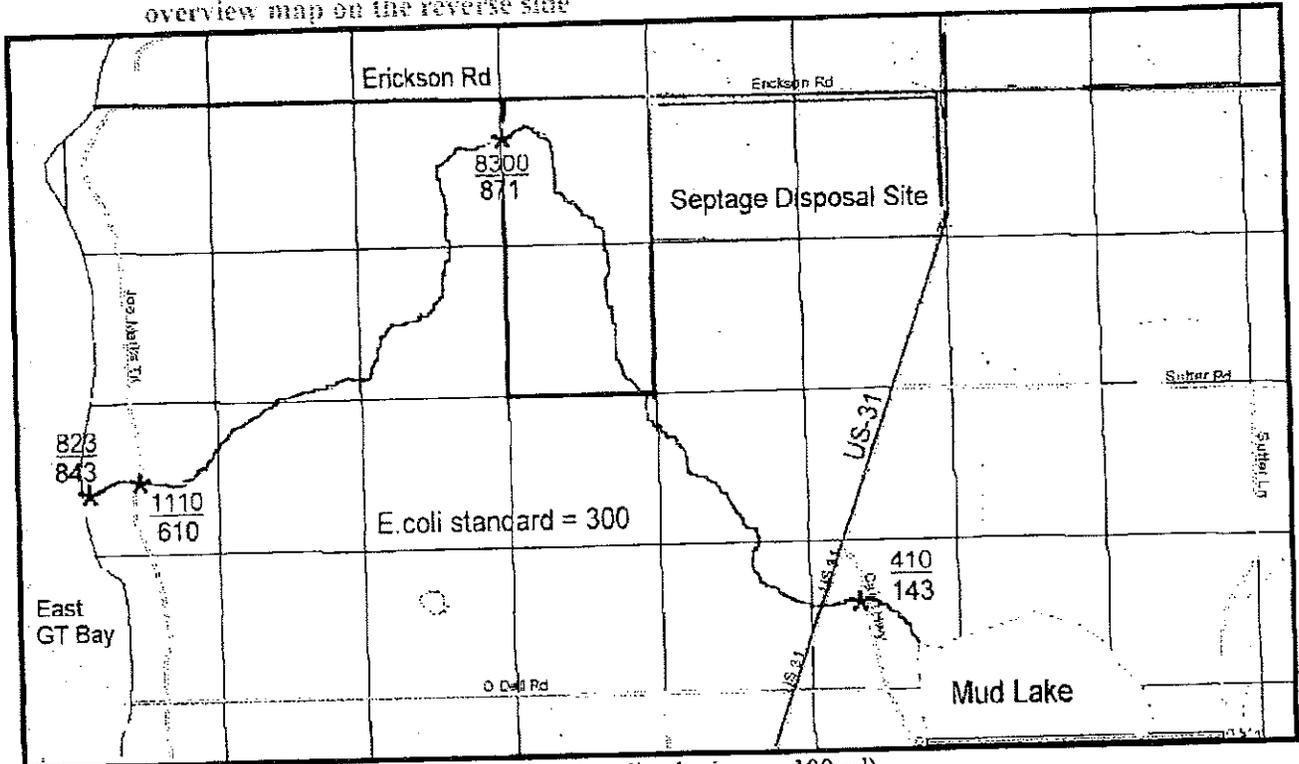
E. COLI

Pristine Water is Ours by Right

Mitchell Creek – Enlarged

overview map on the reverse side

Key: 2006
2007



Geometric mean of triplicate samples at each site (e.coli colonies per 100 ml)

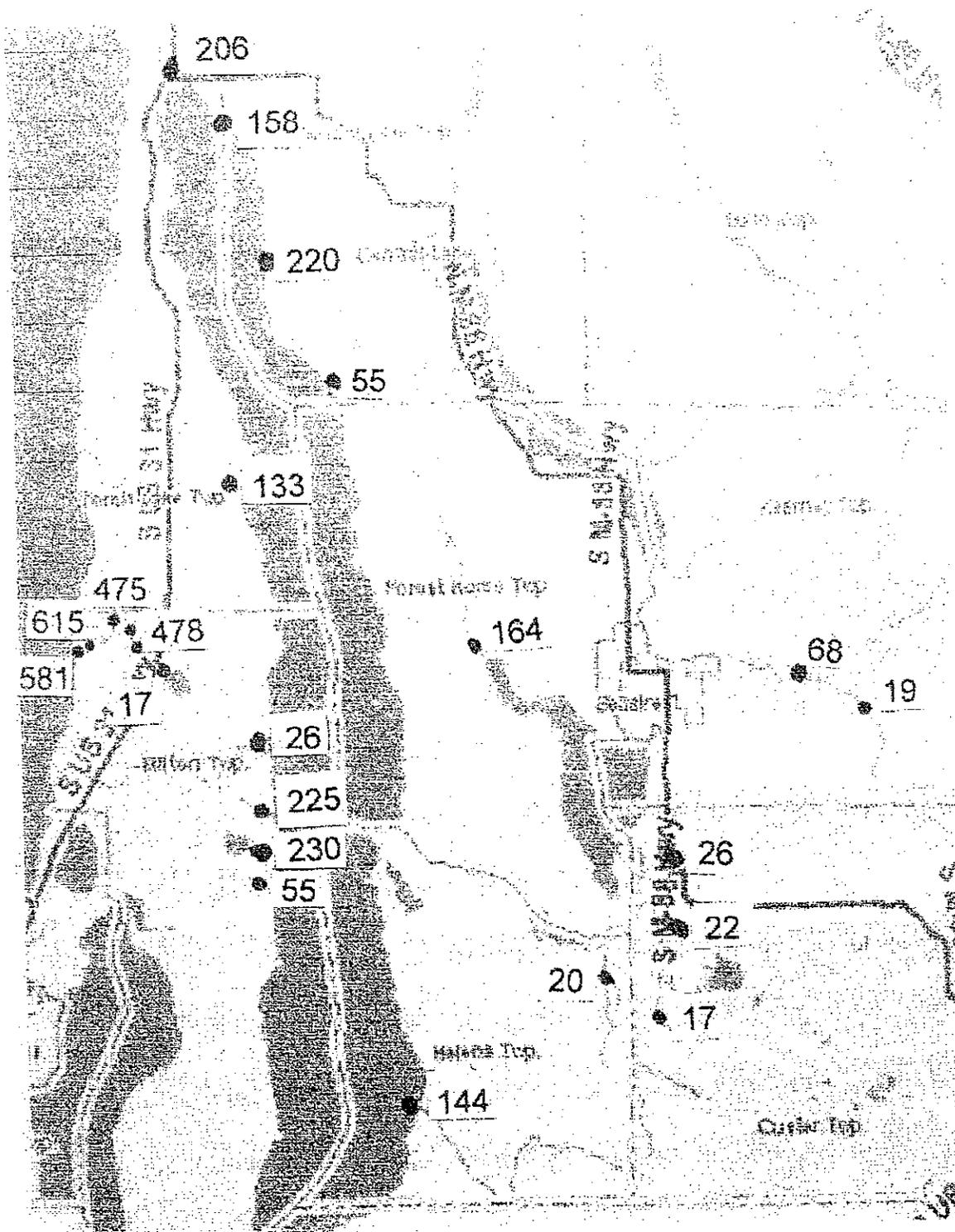
Sources: MDEQ Report – Mitchell Creek e.coli monitoring, 2007 TMN Report: Mitchell Creek is polluted, 2006

E. COLI READINGS IN MITCHELL CREEK & SEVENTEEN OTHER AREA CREEKS

AVERAGE* READING AT EACH SITE

Red violates – Blue meets Michigan Water Quality Standard of 300.

Observation: Of 18 creeks tested, all harbor wildlife while only one - Mitchell Creek - also harbors septage disposal and is the sole creek violating state e.coli standards.



* Geometric mean of most recent triplicate samples at each site (e.coli colonies per 100 ml)

Source: Three Lakes Association 2007 Area Creek and Stream Survey – 17 creeks
MDEQ Report – Mitchell Creek e.coli monitoring, 2007

From: <LASKY100@aol.com>
To: <lesages@michigan.gov>
Date: 2/12/2008 6:35:02 AM
Subject: Mitchell Creek Timing Advanced to 2008

To: Sarah LeSage, DEQ Water Bureau
P.O. Box 30273
Lansing, Michigan 489097773
_lesages@michigan.gov _ (mailto:lesages@michigan.gov)
fax: (517)373-9958

From: Tom Lasky/ Oakland County, MI

RE: Draft Sections 303(d) and 305(b) Integrated Report page 278 of
471,
Mitchell Creek including tributary of 1.41 miles (HUC: 040601050702)

I support the listing of Mitchell Creek in the Report as not supporting
partial and full human body contact due to E.coli counts in excess of State
standards.

I request TMDL timing be advanced to 2008 from 2015. The creek length
should be listed as 1.41 miles not 1.14 miles.

Regards,

Tom Lasky

Thomas D. Lasky
Metro Holdings Group, LLC
31780 Telegraph Rd., Suite 250
Bingham Farms, MI 48025

Phone: 248-593-7850
Mobile: 248-613-0300
Fax: 248-593-7859
Email: lasky100@aol.com
Web: _Metro Holdings Group, LLC#_ (<http://www.metroholdingsgroupllc.com/#>)

*****The year's hottest artists on the red carpet at the Grammy
Awards. Go to AOL Music.
(<http://music.aol.com/grammys?NCID=aolcmp00300000002565>)

CC: <Nerak2822@aol.com>, <pecdoc2822@yahoo.com>

From: "Freiwald, Gregory (GM)" <GMFreiwald@dow.com>
To: <lesages@michigan.gov>
Date: 2/12/2008 6:53:47 PM
Subject: Action requested on Mitchell Creek

To: Sarah LeSage, DEQ Water Bureau
P.O. Box 30273
Lansing, Michigan 489097773
lesages@michigan.gov <mailto:lesages@michigan.gov>
fax: (517)373-9958

From: Ana and Gregory Freiwald. Joe Marks Trail 3798. Kewadin

RE: Draft Sections 303(d) and 305(b) Integrated Report page 278 of 471,
Mitchell Creek including tributary of 1.41 miles (HUC: 040601050702)

I support the listing of Mitchell Creek in the Report as not supporting partial and full human body contact due to E.coli counts in excess of State standards.

I request TMDL timing be advanced to 2008 from 2015. The creek length should be listed as 1.41 miles not 1.14 miles.

Regards,

Ana and Gregory Freiwald
e-mail: ana.freiwald@sbcglobal.net

Sarah LeSage - Mitchell Creek

From: <nerak2822@aol.com>
To: <lesages@michigan.gov>
Date: 2/12/2008 8:07 AM
Subject: Mitchell Creek

Ms. Le Sage; As a property owner adjacent to Mitchell Creek in Antrim County, I applaud the decision to place the contaminated creek on State scrutiny listing and testing. The e Coli contamination in this residential stream poses serious threats to our children and property values. Please, however, move the initial testing date up to 2008 from the now scheduled 2015. I understand the State has limited resources to allocate to these endeavors, but this contamination issue, by the size and location of the waterway, deserves first priority. Thanks for your attention!

Karen Clancy

Kewadin Twp, Antrim County

More new features than ever. Check out the new [AOL Mail!](#)

From: <Nmbidcotc@aol.com>
To: <lesages@michigan.gov>
Date: 2/12/2008 10:23:51 AM
Subject: Mitchell Creek - Milton Township - Antrim County

From : Charles S and Kay A McDowell
3358 Joe Marks Trail
Kewadin, Mi 49648
Milton Township - Antrim County

Re: Draft Section 303 (d) and 305 b Integrated Report page 278 of 471,
Mitchell Creek including tributary of 1.41 miles (HUC: 040601050702)

We support the listing of Mitchell Creek in the report as not supporting
partial and full human body contact due to E.coli counts in excess of State
standards.

We request TMDL be advanced to 2008 from 2015. The creek length should be
1.41 miles and not 1.14 miles.

Thank you.

Charles S. and Kay McDowell

*****The year's hottest artists on the red carpet at the Grammy
Awards. Go to AOL Music.
(<http://music.aol.com/grammys?NCID=aolcmp00300000002565>)

From: <ARights2N@aol.com>
To: <lesages@michigan.gov>
Date: 2/13/2008 12:51:49 PM
Subject: Mitchell Creek

Dear Ms. LeSage,

re: Draft Sections 303(d) and 305(d) Integrated Report page 278
of 471, Mitchell Creek
including tributary of 1.41 miles (HUC: 040601050702)

I understand that Mitchell Creek (Milton Twnshp, Antrim County) has been listed by the Michigan DEQ as not supporting partial or full body human contact because E.coli violates state standards. However, the TMDL study is scheduled for the year of 2015 - too far down the road. I urge you to schedule it for the summer of 2008. This is crucial for the eventual clean-up of Mitchell Creek.

Sincerely,

Edith J. Sullivan

Milton Township/Antrim County

email: arights@aol.com

*****The year's hottest artists on the red carpet at the Grammy Awards. Go to AOL Music.
(<http://music.aol.com/grammys?NCID=aolcmp00300000002565>)

From: "neill" <neill@schmeichel.net>
To: <lesages@michigan.gov>
Date: 2/13/2008 2:44:31 PM
Subject: Mitchell creek

RE draft sections 303(d) and 305(d) Integrated Report page 278 of 471

I strongly support the listing of Mitchell Creek in the Report as not supporting partial and full human body contact due to e.coli counts in excess of State standards.

I strongly request TMDL timing be advanced to 2008 from 2015. The creek length should be listed as 1.41 miles, not 1.14 miles.

Respectfully,

Neill Schmeichel
4284 juniper dr
kewadin, mi 49648

From: "Ginther Dean" <dean.ginther@capella.edu>
To: <lesages@michigan.gov>
Date: 2/14/2008 7:20:46 PM
Subject: Mitchell Creek, Milton Twp, Antrim County (HUC: 040601050702)

Sarah LeSage, DEQ Water Bureau

P.O. Box 30273

Lansing, Michigan 489097773

February 14, 2008

Dear Sarah LeSage,

I am writing this letter in reference to the listing of Mitchell Creek in Milton Township, Antrim County, as a water body meriting listing for a TMDL study. As President of the Elk Skegemog Lakes Association and our 650 members and Board of Directors, I support this TMDL study and urge that it be completed with greater alacrity. As you may know, this stream empties into the Grand Travers Bay/Lake Michigan and has the potential to negatively affect not only the nearby residents but also residents of Elk Rapids and other more populated areas.

Thank you for your consideration of the request.

Dean W. Ginther

Elk-Skegemog Lakes Association, President

<http://www.elk-skegemog.org/>

11228 Shippey Lane

Rapid City, MI 49676

Milton Twp, Antrim County

Direct Line: 231-322-6286

E-mail: dean.ginther@gmail.com

<http://dean.ginther.googlepages.com/>

RECEIVED
WB-SWAS

FEB 19 2008

2/9/08

Mrs Le Sage:

I AM A PROPERTY OWNER
IMMEDIATELY ADJACENT TO THE CONTAMINATED
MITCHELL CREEK IN MILTON TWP OF
ANTRIM COUNTY. THE POLLUTION OF
THIS ONCE FINE WATERWAY HAS
ADVERSELY AFFECTED MY FAMILY
VERY DIRECTLY.

→ REGARDING DRAFT SECTIONS 303(d) and
305(b) INTEGRATED REPORT PAGE 278
OF 471, MITCHELL CREEK INCLUDING
TRIBUTARY OF 1.41 MILES —
(HUC: 040601050702)

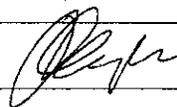
WE HEARTILY SUPPORT THE LISTING OF
MITCHELL CREEK IN THE REPORT AS NOT
SUPPORTING HUMAN BODY CONTACT DUE
TO e. COLI COUNTS IN EXCESS OF STATE
STANDARDS.

* PLEASE, HOWEVER, ADVANCE TMDL
TIMING FROM 2015 TO 2008.

(OVER)

RECEIVED
PAWZ BW

Thank you
indeed.



PAUL CLANCY MD

3626 JOE MAFFS TRAIL

KENADON, MI

ANTRIM COUNTY

248 - 3349116

Moreno-Termaat
3772 Darlington Rd. South
Bloomfield Hills, MD 48301

February 12, 2008

RECEIVED
WB-SWAS

FEB 20 2008

Ms. Sarah LeSage, DEQ Water Bureau
P.O. Box 30273
Lansing, Michigan 48909-7773

RE: Draft Sections 303(d) and 305(b) Integrated Report page 278 of 471,
Mitchell Creek including tributary of 1.41 miles (HUC: 040601050702)

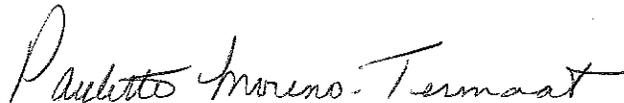
I'm a long time seasonal resident in the area of Mitchell Creek. My grandchildren enjoy playing in the creek. The creek empties into Traverse Bay near our home on the Bay. Since Mitchell Creek has been designated contaminated, I fear for the children getting sick. As an adult I find it disgusting just strolling on the shore in bare feet in E.Coli contaminated waters during temperate weather.

I support the listing of Mitchell Creek in the Report as not supporting partial and full human body contact due to E.coli counts in excess of State standards.

I request TMDL timing be advanced to 2008 from 2015. The creek length should be listed as 1.41 miles not 1.14 miles.

*Please give this serious consideration. My grandchildren "thank you".
I "thank you".*

Regards,



Paulette Moreno-Termaat
Phone: 248-202-1742

Sarah
~~DIROOO91~~

THE MILTON NEIGHBORS
A Michigan Not-for-Profit Corporation - Serving Milton and Torch Lake Townships
PO Box 288, Kewadin, Michigan 49648

February 12, 2008

Mr. Steven Chester, Director DEQ
Constitution Hall, 6th Floor South
PO Box 30473
Lansing, MI 48909-7973

RE: Mitchell Creek (Antrim County)

Dear Director Chester,

The Milton Neighbors have provided public comment to your staff on the draft 303(d) and 305(b) listing of Mitchell Creek E.coli non-attainment. Thank you for the listing. We noted our support for the list and objection to 2015 TDML timing; we request pull ahead to 2008. Timely DEQ action is the only objective means to correct the creek's E.coli non-attainment.

A pull-ahead to 2008 is crucial because of an apparent conflict of interest by DEQ contractor GLEC, author of the Mitchell Creek E.coli Monitoring Report (Contract 071B6200380) upon which TDML is based. GLEC recently reported a conflict of interest to a TMN inquiry having been retained by farmer White to perform his own TDML this summer. The White farm owns the septage disposal site at issue and a cow feed lot in the Mitchell Creek watershed. He cannot be the objective arbiter of who is responsible for E.coli non-attainment. Only the State of Michigan can.

A TDML pull ahead is supported by the continuing threat to public health, the presence of a septage disposal site and cow feed lot in the watershed, and the finding by Three Lakes Association (TLA) that 17 nearby creeks all met State E.coli standards (Torch Lake area map). The TLA study is evidence that background (i.e. wildlife) levels of E.coli are low and that Mitchell Creek is in all probability contaminated by other sources. Further, littoral drift south from the creek may have contributed to the first ever E.coli advisory posted last summer at Elk Rapids public beaches.

We are encouraged that E.coli levels have come down in response to DEQ action. The trend map shows substantial reduction just downstream of the septage disposal site after disposal operations halted in mid-January 2007. However, E.coli levels at the GT Bay Creek mouth have not come down at all from 2006.

Board of Directors:

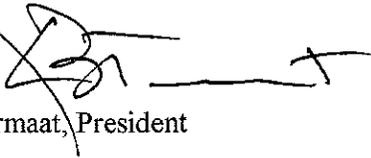
President: Keith Termaat - Vice President: Len Dillon - Treasurer: Larry Fata - Secretary: Pam Wehr
Directors: Ron Frohriep - Tom Streeter - Rick Welsh. Mike Moyer, past president

THE MILTON NEIGHBORS

Director Steven Chester
Page 2
February 12, 2008

We are deeply appreciative of your interest in Mitchell Creek and the diligent technical work by your staff in correcting E.coli non-attainment.

Regards,

A handwritten signature in black ink, appearing to read 'Keith Termaat', with a long horizontal line extending to the right.

Keith Termaat, President

Attachments: 2006-2007 Trend map -- Mitchell Creek
2007 -- Creek E.coli map in the environs of Torch Lake

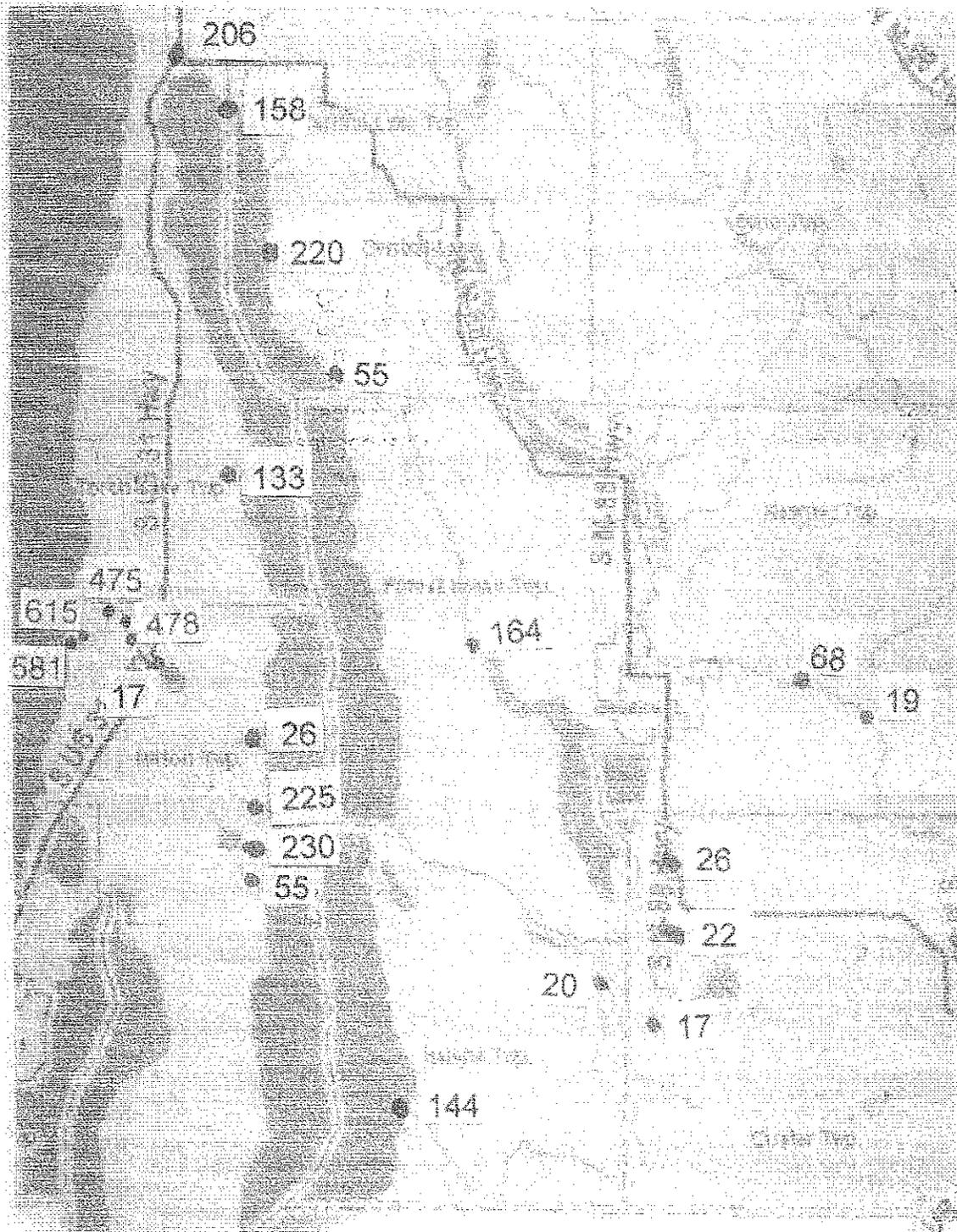
Cc: Ms. Karen Ferguson 1011 Noteware, Suite 202 Traverse City, MI 49686
Dr. Rebecca Norris, MD 4016 US Highway 31 N., Kewadin, MI 49648

Mr. Jim Sygo, Deputy Director, DEQ
Ms. JoAnn Merrick, Senior Executive Assistant to the Director, DEQ
Mr. Frank J. Ruswick, Jr., Special Assistant to the Director, DEQ
Mr. Richard A. Powers, DEQ

E. COLI READINGS IN MITCHELL CREEK & SEVENTEEN OTHER AREA CREEKS
AVERAGE* READING AT EACH SITE

Red violates – Blue meets Michigan Water Quality Standard of 300.

Observation: Of 18 creeks tested, all harbor wildlife while only one - Mitchell Creek - also harbors septage disposal and is the sole creek violating state e.coli standards.



* Geometric mean of most recent triplicate samples at each site (e.coli colonies per 100 ml)
Source: Three Lakes Association 2007 Area Creek and Stream Survey – 17 creeks
MDEQ Report – Mitchell Creek e.coli monitoring, 2007



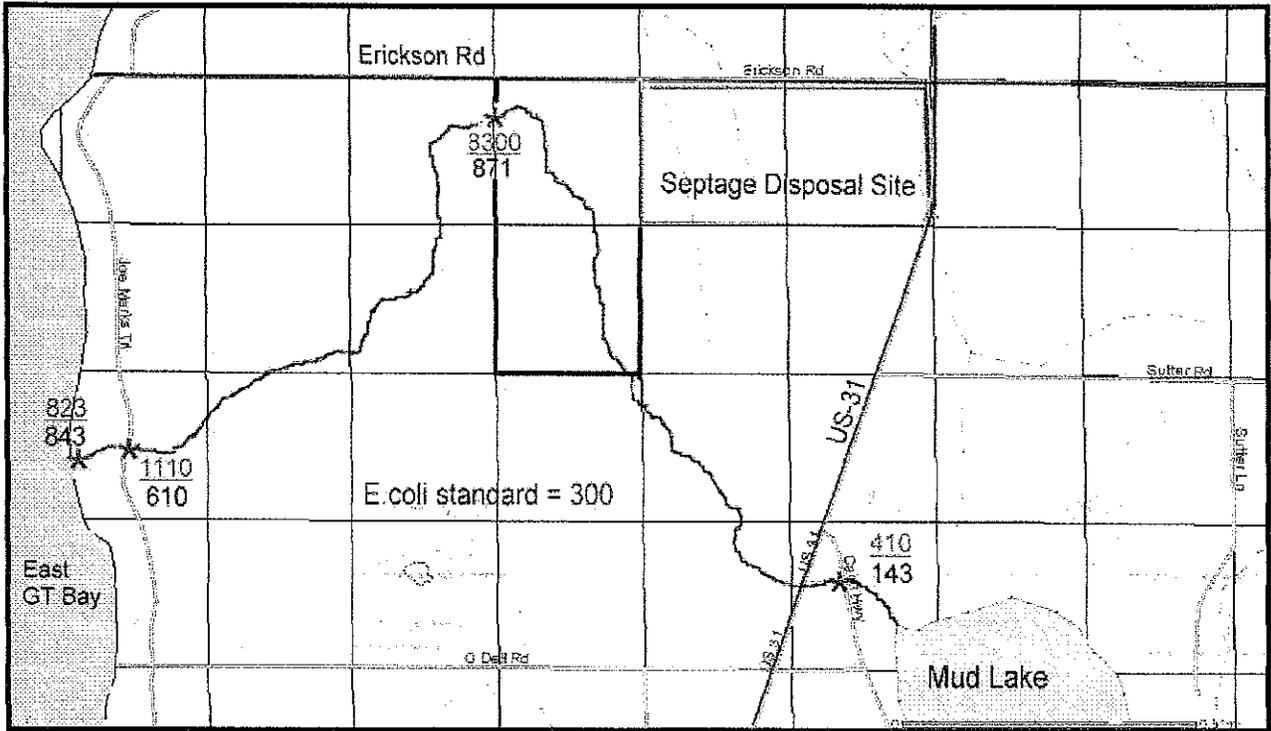
E. COLI

Pristine Water is Ours by Right

Mitchell Creek – Enlarged

overview map on the reverse side

Key: 2006
 2007



Geometric mean of triplicate samples at each site (e.coli colonies per 100 ml)

Sources: MDEQ Report – Mitchell Creek e.coli monitoring, 2007 TMN Report: Mitchell Creek is polluted, 2006

THE MILTON NEIGHBORS

A Michigan Not-for-Profit Corporation - Serving Milton and Torch Lake Townships
PO Box 288, Kewadin, Michigan 49648

February 17, 2008

RECEIVED
WB-SWAS

FEB 22 2008

Sarah Le Sage
DEQ Water Bureau

Subject: Draft Sections 303(D) & 305(b)
Integrated Report Pg. 278 of 471

Mitchell Creek including tributaries
of 1.14 miles (HMA: 040601050102)

Dear Ms Le Sage —

Bill & Gwen Senatore support the listing of Mitchell Creek in the Report as not supporting partial & small human body contact due to E. coli counts in excess of State standards.

We request TMDL timing be advanced to 2008 from 2015.

Sincerely,

Gwen O. Senatore

and

William F. Senatore

Kewadin, Michigan

Milton Township

Antrim County

From: Pamela Wehr <pawehr@torchlake.com>
To: <lesages@michigan.gov>
Date: 2/24/2008 8:09:19 PM
Subject: Mitchell Creek Study

To: Sarah LeSage, DEQ Water Bureau
P.O. Box 30273
Lansing, Michigan 48909-7773
<mailto:lesages@michigan.gov>lesages@michigan.gov
fax: (517)373-9958

From: Pamela A. Wehr, Milton Township, Antrim County

RE: Draft Sections 303(d) and 305(b) Integrated Report page 278 of 471,
Mitchell Creek including tributary of 1.41 miles (HUC: 040601050702)

I support the listing of Mitchell Creek in the Report as not supporting partial and full human body contact due to E.coli counts in excess of State standards.

Given the seriousness of E-coli contamination, I request TMDL timing be advanced to 2008 from 2015. Surely E-coli should take precedence over such things as sedimentation contamination (one of the reasons for listing other creeks).

Thank you very much,

Pamela A. Wehr

From: <JHolland@slv.vic.gov.au>
To: <lesages@michigan.gov>
Date: 2/24/2008 10:19:53 PM
Subject: Re: Draft Sections 303(d) and 305(b) Integrated Report page 278 of 471,

Dear Sarah,

I'm writing on behalf of myself and brothers who have a cottage on Traverse Bay. We are very concerned and upset by the fact that the lake has been allowed to become contaminated. We've got wonderful memories of our stays at the cottage during our childhoods, by the pristine quality of the water and the wonderful sandy beach with petoskey stones far and wide. Our point of the beach is now rank and reedy and we now know E.coli standards have been violated at Mitchell Creek. Even when septic waste is trucked to Traverse City rather than to holding tanks near our cottage we know it's going to take time for contamination of the bay to be reduced.

I have heard that the clean up of Mitchell Creek is considered a low priority by the State authorities, and that a TMDL study is not scheduled until 2015. This is clearly unacceptable.

I can see no reason why this should not be scheduled to occur this year. This is obviously a critical step in the lead up to the actual clean up of the creek.

I would like to urge you in your position to push this issue forward. I support the listing of Mitchell Creek in the Report as not supporting partial and full human body contact due to E.coli counts in excess of State standards. I request TMDL timing be advanced to 2008 from 2015. The creek length should be listed as 1.41 miles not 1.14 miles.

It is a critical issue so far as my brothers and I are concerned and we look forward to hearing of a decision by the State which accords it equal seriousness.

Thank you for your assistance.

Regards,

Jean Holland

PS I am now resident in Australia; however I look forward to regular visits back to Michigan and am hopeful of again swimming safely in the lake. My brothers both reside in Ann Arbor.

Senior Book Conservator
Collection Management Division
State Library of Victoria
328 Swanston Street
Melbourne Victoria 3000 Australia

Tel : 61+ 3 8664 7353
Fax: 61+ 3 9639 6673

From: Tom Litow <tlitow@ameritech.net>
To: <lesages@michigan.gov>
Date: 2/25/2008 2:06:32 PM
Subject: RE: Draft Sections 303(d) and 305(b) Integrated Report page 278 of 471, Mitchell Creek including tributary of 1.41 miles (HUC: 040601050702)

2-24-2008

From: Thomas A. Litow, Ann Arbor, MI, Washtenaw county

RE: Draft Sections 303(d) and 305(b) Integrated Report page 278 of 471, Mitchell Creek including tributary of 1.41 miles (HUC: 040601050702)

Dear Ms. LeSage,

I urge you to support the listing of Mitchell Creek in the Report as not supporting partial and full human body contact due to E.coli counts in excess of State standards.

Further, I request TMDL timing be advanced to the summer of 2008 from its present 2015. The creek length should also be listed as 1.41 miles not 1.14 miles.

E coli contamination, likely from large quantities of septic waste located upstream near O'Dell Rd in Milton Township, now finds its way into the creek and then to East Grand Traverse Bay. My parents (Harry and Eleanor Litow) owned one of the original (1947) cottages in that area, about a quarter of a mile south of where Mitchell Creek empties into the Bay. Part of the magical quality of that area used to be the pristine cleanliness of the Bay. Two summers ago, however, I returned from a visit to the cottage and a swim in the Bay to find I had an unusual skin infection. I also had detected a slight "septic" odor to the water. Later I learned of the e coli contamination of the creek, and wondered if there might be a connection.

I and my siblings are now co-representatives of my mother's Estate, which includes this property on Grand Traverse Bay. It is an exceptionally beautiful area which deserves to be protected. Please do everything in your power to halt contamination of Mitchell Creek and Grand Traverse Bay as soon as is legally possible.

Thank you very much for your interest and efforts.

Sincerely

Thomas A. Litow
110 Worden Ave, Ann Arbor, MI 48103
734-663-2433
TLITOW@ameritech.net

CC: Tom Litow <tlitow@ameritech.net>

Rebecca M. Norris, M.D.
4016 US Highway 31 North
Kewadin MI 49648

RECEIVED
WB-SWAS

FEB 27 2008

February 25, 2008

Sarah LeSage
DEQ Water Bureau
P.O. Box 30273
Lansing MI 48909

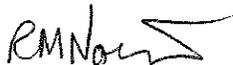
Re: HUC: 040601050702

Dear Ms. LeSage:

I write for two purposes. One, to thank the MDEQ for the study of Mitchell Creek, Antrim County performed during the summer of 2007, which confirmed findings of e. coli pollution detected by concerned local residents in 2006. My second purpose is to urge MDEQ to schedule the follow-up TMDL study as soon as possible, preferably to this summer (2008). The sooner the sources of the e. coli are determined, the sooner the solutions can be undertaken. Cleaning up the pollution in the creek will have beneficial effects on the local environment and protection of the residents from the health risks of heavy e. coli contact.

Thank you for your consideration of this request.

Sincerely,



Rebecca M. Norris, M.D.

From: "Scott Schmeichel" <SSCHMEIC@fdah.com>
To: <lesages@michigan.gov>
Date: 2/25/2008 4:23:46 PM
Subject: Mitchell Creek

Sarah LeSage

I am a resident of Kewadin, Michigan in Milton Township, and live on Joe Marks Trail. I understand that Mitchell Creek is listed by DEQ as not supporting partial and full body contact due to e-coli counts in excess of state standards.

I would like to request that the TMDC timing be moved up to year 2008.

thank you for your consideration

Scott Schmeichel
3034 Joe Marks trail
Kewadin Michigan

From: Jack Norris <blackjack@torchlake.com>
To: Sarah LeSage <lesages@michigan.gov>
Date: 2/25/2008 5:01:15 PM
Subject: TDML study Mitchell Creek, Antrim County

Dear Sarah,

Come summer, I'll be back to you with more "Rock snot" samples; toward the end of the season, telephone queries were stacking up.

But right now, I'm writing to request more timely action on the TDML study of Mitchell Creek now slated for 2015. As some of your folks down there know, the two obvious sources for the e.coli counts in the thousands found there the last two summers are the cattle farm washing into Mud Lake, out of which Milton Creek flows, and the land application of septage which was going on along the creek itself -- no account having been taken in the license application or its issuance of the existence of the creek. Land application of septage was halted for a time in the summer of 2006, then again in January of 2007, so a study done even now would not be done under conditions as they were in 2006. And the longer we wait, the less likely it will be that we can determine which of the two probable sources was primarily responsible, or now needs correction.

Even at this late date, I think a macroinvertebrate study would yield important indications, but given enough recovery time, that source of information also fades. Seems to me that it would be a great coup for the DEQ to figure some innovative way to get insistent field work done despite funding and budget difficulties -- and I'd like to help.

Is there some way to get the proposed study done during the summer of 2008? Is an offer of fund matching something to consider? Could the DEQ certify appropriately trained volunteers -- members of a recognized environmentalist group -- as field personnel, overseen by a DEQ-certified laboratory? Are there yet other arrangements that could put this study on schedule for May-October of this year?

Thanks very much for your help,

Jack Norris

Feb. 29 2008

Dear Ms. DeSage,

I am writing you, regarding Draft Sections 303(d) and 305(b) Integrated Report page 278 of 471, Mitchell Creek including tributary of 1.41 miles (HUC: 040601050702).

My husband and I have been permanent residents since 1973 and are extremely concerned about this issue. We are Jean Makela, W. James and Jean Makela of Milton Township in Antrim Co.

We support listing Mitchell Creek in the report as not supporting partial and full human body contact due to E. coli counts in excess of State of Michigan standard.

We request your urgent consideration that Mitchell Creek TMDL timing be advanced to 2008 from 2015. Please prioritize Mitchell Creek because it doesn't meet the standard and action to reduce E. Coli pollution is needed immediately.

Thank you for your attention to this. Jean Makela