



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 3 2011

REPLY TO THE ATTENTION OF:

Patty Birkholz, Director
Office of the Great Lakes
Michigan Department of Natural Resources and Environment
Constitution Hall
525 West Allegan Street
P.O. Box 30273
Lansing, Michigan 48909-7773

Dear Ms. Birkholz:

This letter is the U.S. Environmental Protection Agency's (EPA) official response to the Michigan Department of Natural Resources and Environment's (MDNRE) letter of December 29, 2010, requesting the delisting of the Restrictions on Dredging Activities Beneficial Use Impairment (BUI) in the St. Clair River Area of Concern (AOC). As your request points out and the supplied data support, the following restoration criteria for the Dredging BUI in the St. Clair River AOC has been met:

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

The supporting documentation states that numerous point and nonpoint source control measures have been implemented within the AOC since this BUI was identified as impaired. Further, the 2004 and 2009 sediment quality samples from the United States waters of the St. Clair River show that the sediments were uncontaminated and met the State's restoration criteria for this BUI.

Based upon EPA's review of your request and the supporting data, and upon our shared desire to show progress as we move all of the Great Lakes AOCs toward restoration of all BUIs and formal delisting, EPA approves your request for the delisting of the Restrictions on Dredging Activities BUI in the St. Clair River AOC. EPA will notify the International Joint Commission (IJC) of this significant positive change in the environmental health of the St. Clair River AOC.

We congratulate all of the parties involved in this International/Federal/State/local partnership. This partnership has been instrumental in achieving this important environmental improvement which will benefit the citizens of the St. Clair River AOC, the State of Michigan, and of the Great Lakes Basin. We look forward to the continuation of this important and productive relationship with the MDNRE and the local coordinating committees as we work together to fully restore all of Michigan's AOCs.

If I or my staff can be of further service to you, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary V. Gulezian". The signature is fluid and cursive, with a horizontal line extending from the end.

Gary V. Gulezian
Director

cc:

James K. Cleland, DNRE

Richard Hobrla, DNRE

Christine Aiello, DNRE

Dr. Saad Jasim, Director, Great Lakes Regional Office, IJC

Roseanne Ellison, AOC Liaison, USEPA-GLNPO

John Perrecone, AOC Coordinator, USEPA-GLNPO

USEPA-Office of International Activities

**BRIEFING PAPER
REMOVAL OF THE
RESTRICTIONS ON DREDGING ACTIVITIES BENEFICIAL USE IMPAIRMENT
IN UNITED STATES WATERS
OF THE ST. CLAIR RIVER AREA OF CONCERN**

Request

Based upon Remedial Action Plan (RAP) documentation review, consultation with agency staff, Technical Committee review, and public input, the Michigan Department of Natural Resources and Environment (DNRE), Area of Concern (AOC) Program, requests concurrence with its recommendation to remove the Restrictions on Dredging Activities Beneficial Use Impairment (BUI) in United States waters of the St. Clair River AOC. This request is being made in accordance with the process and criteria outlined in the *Guidance for Delisting Michigan's Great Lakes Areas of Concern* (Guidance), (Michigan Department of Environmental Quality [DEQ], 2008).

Background

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

The physical boundary of the St. Clair River AOC is defined as the entire river from the Blue Water Bridge to the southern tip of Seaway Island, west to St. John's Marsh, and east to include the north shore of Mitchell's Bay on Lake St. Clair in Ontario. Anchor Bay of Lake St. Clair is not included within the AOC.

The 1991 Stage 1 St. Clair River RAP (Ontario Ministry of the Environment [OMOE] and the Michigan Department of Natural Resources [DNR], 1991) identified 10 BUIs affecting the St. Clair River AOC. These BUIs are listed below. (The Tainting of Fish and Wildlife Flavor BUI was removed in United States waters of the St. Clair River AOC on September 17, 2009, and efforts are currently underway to remove this BUI in Canadian waters of the AOC).

- Restrictions on Fish and Wildlife Consumption

- Tainting of Fish and Wildlife Flavor
- Bird or Animal Deformities or Reproductive Problems
- Degradation of Benthos
- Restrictions on Dredging Activities
- Restrictions on Drinking Water Consumption or Taste and Odor Problems
- Beach Closings
- Degradation of Aesthetics
- Added Costs to Agriculture or Industry
- Loss of Fish and Wildlife Habitat

The 1991 Stage 1 St. Clair River RAP (OMOE and DNR, 1991) reported that concentrations of oil and grease, total Kjeldahl nitrogen and trace metals were considered moderately or heavily polluted in United States waters according to federal and provincial guidelines, but concluded that there were “no restrictions on dredging or disposal of dredged material from United States waters of the St. Clair River due to the presence of contaminants.” The document nevertheless identified the status of the BUI as impaired based on contamination found in Canadian waters. The 1995 Stage 2 St. Clair River RAP (OMOE and DNR, 1995) later identified the status of the BUI as requiring further assessment, rather than as impaired. For purposes of applying the Guidance, the DNRE elected to consider such BUIs as impaired.

The Restrictions on Dredging Activities BUI applies only to federally-recognized navigational channels within the AOC. Removal of this BUI will not mean that no sediment quality problems exist outside of the federally-recognized navigational channels within the AOC; such sediment quality problems will be addressed through measures taken to restore other BUIs such as the Degradation of Benthos BUI. Furthermore, removal of this BUI will have no effect on routine monitoring of dredge spoils taken in the future from the federally-recognized navigational channel of the AOC; such monitoring is and will continue to be required by the DNRE of the United States Army Corps of Engineers (USACE). Finally, navigational channels that are not federally-recognized, although they fall outside the scope of this BUI, are nevertheless still subject to DNRE and USACE testing and permitting, including requirements for appropriate disposal of dredge spoils.

On March 28, 2007, the St. Clair River Binational Public Advisory Council (BPAC) voted to accept the criteria for nonhabitat BUI assessment and removal presented in the Guidance. The Guidance states that the Restrictions on Dredging Activities BUI will be considered restored when:

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

OR, in cases where dredging restrictions exist:

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

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

Since the Restrictions on Dredging Activities BUI was initially determined for the St. Clair River AOC, numerous point source and nonpoint source control measures have been implemented within the AOC. These have most certainly played a beneficial role with respect to the status of the Restrictions on Dredging Activities BUI, whether or not these measures were specifically intended to benefit the status of that BUI or bring about its restoration. These measures include stream bed and stream bank restoration projects, Combined Sewer Overflow control improvements, changes in industrial processes, National Pollutant Discharge Elimination System improvements, routine navigational channel dredging, upland source controls associated with brownfield redevelopment, and spill prevention initiatives.

Assessment of Restoration

In September - October 2004 and June 2009, USACE contractors collected sediment quality samples from United States waters of the St. Clair River AOC. These samples yielded data on metals, polycyclic aromatic hydrocarbons, polychlorinated biphenyls, and grain size analysis.

These data are summarized in detailed reports by Lakeshore Engineering Services (2005), and FutureNet Group (2009). These reports were evaluated by Mike Alexander, Water Resources Division (WRD), DNRE; and Duane Roskoskey, Environmental Resource Management Division, DNRE.

The data evaluation showed that all parameters analyzed were below United States Environmental Protection Agency (USEPA), Region 5, Resource Conservation Recovery Act Ecological Screening Levels, and that the sediment is considered to be uncontaminated pursuant to Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Based solely on contaminant levels, such sediment would qualify for use as beach nourishment and for unrestricted upland disposal. At present, dredge spoils from the St. Clair River AOC are disposed of in a CDF, but this is done as a matter of convenience and is not necessitated by contamination.

Based on the results of this data evaluation, DNRE AOC Program staff determined that during both the 2009 and 2004 dredging cycles, dredge spoils from the federally-recognized navigational channel of the St. Clair River AOC met Michigan's criteria for removal of the Restrictions on Dredging Activities BUI in United States waters of the AOC.

The DNRE, AOC Program, convened a Technical Committee to further review the restoration status of the Restrictions on Dredging Activities BUI. The Technical Committee comprised Pam Horner and Martin Kuhn, USACE; Janice Littlefield, St. Clair River Public Advisory Council; Rose Ellison, USEPA, Great Lakes National Program Office; Ted Briggs, OMOE; and Mike Alexander and Christine Aiello, WRD, DNRE. This Technical Committee concluded that dredge spoils from the St. Clair River AOC's federally-recognized navigational channel meet Michigan's criteria for removal of the Restrictions on Dredging Activities BUI in United States waters of the AOC.

A public comment period was provided, beginning November 9, 2009, and ending December 11, 2009, to allow broader participation in this BUI removal recommendation. During this period, the following comments were received and have been addressed in this briefing paper:

1. The briefing paper should speak briefly to the issue of navigational channels within the St. Clair AOC which are not federally-recognized.
2. The briefing paper should clarify that removal of this BUI will not mean that further monitoring of dredge spoils is no longer required of the USACE.
3. The briefing paper should briefly summarize the results of the data evaluation conducted to support this recommendation for BUI removal.

A letter of support for removal of this BUI was received from the St. Clair River BPAC on November 22, 2010.

Recommendation

The DNRE, AOC Program, requests concurrence with its recommendation to remove the Restrictions on Dredging Activities BUI in United States waters of the St. Clair River AOC.

Prepared by: Christine Aiello, Senior Environmental Quality Analyst
Office of the Great Lakes
Department of Natural Resources and Environment
December 15, 2010

References

- DEQ. 2008. Guidance for Delisting Michigan's Great Lakes Areas of Concern. Report No. MI/DEQ/WB-06/001.
- FutureNet Group, Inc. 2009. Sediment Sampling and Analysis Report, St. Clair River, Michigan. Produced in fulfillment of Contract No. W911XK-07-D-0004, Task Order #023, for the U.S. Army Corp of Engineers, Detroit District.
- Lakeshore Engineering Services, Inc. 2005. St. Clair River, Michigan, Sediment Sampling and Analysis Report, Final Report. Produced in fulfillment of Contract No. DACW35-01-D-0007, Delivery Order No. 27, for the U.S. Army Corp of Engineers, Detroit District.
- OMOE and DNR. 1995. The St. Clair River Area of Concern Water Use Goals, Remedial Measures and Implementation Strategy, Stage 2 Remedial Action Plan.
- OMOE and DNR. 1991. The St. Clair River Area of Concern Environmental Conditions and Problem Definitions, Stage 1 Remedial Action Plan.