



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
GREAT LAKES NATIONAL PROGRAM OFFICE
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 17 2009

Mail Code G-17J

Mr. William Creal
Chief
Water Bureau
Michigan Department of Environmental Quality
525 West Allegan Street
Post Office Box 30273
Lansing, Michigan 48909-7773

RECEIVED DEQ - ANC - RAU

SEP 23 2009

Dear Mr. Creal:

Thank you for your letter of July 29, 2009 requesting the delisting of the Tainting of Fish and Wildlife Beneficial Use Impairment (BUI) in the Binational St. Clair River Area of Concern (AOC). As your request points out and the supplied data support, you have met the restoration criteria for the Tainting of Fish and Wildlife Beneficial Use Impairment BUI in the St. Clair River Area of Concern AOC.

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 Tainting of Fish and Wildlife Beneficial Use Impairment BUI in the St. Clair River AOC. The data show that there have not been more than 3 reports of fish and wildlife tainting to the Michigan Department of Environmental Quality (MDEQ) and the Michigan Department of Natural Resources (MDNR), within a period of 3 years. Local surveys have shown that this impairment no longer exists and that the analysis of fish samples by the MDEQ indicates that there is no tainting of fish flavor.

EPA will notify the International Joint Commission (IJC) of this significant positive change in the environmental health of the St. Clair River AOC. It is also noteworthy that there was consensus from the St. Clair River Binational Public Advisory Council (BPAC) on this request which clearly shows a strong international effort. Also, a public comment period was held and no comments were received.

We congratulate all of the parties involved in this Binational/Federal/State/local partnership. They have been instrumental in achieving this important environmental improvement which will benefit the citizens of the Binational 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 MDEQ 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 cursive script that reads "Gary Gulezian". The signature is written in black ink and is positioned above the printed name.

Gary V. Gulezian
Director

cc:

Mr. James K. Cleland, MDEQ
Ms. Diana Klemans, MDEQ
Mr. Richard Hobrla, MDEQ
✓ Ms. Christine Aiello, MDEQ
Ms. Janice Littlefield, U.S. Co-Chair, BPAC
Ms. Karen Vigmostad, Director, Great Lakes Regional Office, IJC
Ms. Rosanne Ellison, AOC Liaison, USEPA-GLNPO
Mr. John Perrecone, RAP Coordinator, USEPA-GLNPO
Mr. Pete Christich, USEPA-Office of International Activities
Mr. Michael Goffin, Environment Canada



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

July 29, 2009

Mr. Gary Gulezian, Director
Great Lakes National Program Office
United States Environmental Protection Agency
Region 5
77 West Jackson Boulevard (G-17J)
Chicago, Illinois 60604-3507

Dear Mr. Gulezian:

The purpose of this letter is to request the United States Environmental Protection Agency (USEPA), Great Lakes National Program Office's (GLNPO), concurrence with the removal of the Tainting of Fish and Wildlife Beneficial Use Impairment (BUI) from the St. Clair River Area of Concern (AOC). The Michigan Department of Environmental Quality (MDEQ) has assessed the status of this BUI in accordance with the state's *Guidance for Delisting Michigan's Great Lakes Areas of Concern*, and recommends that the BUI be removed from the list of impairments in the St. Clair River AOC.

Enclosed please find documentation to support this recommendation, including the BUI removal Briefing Paper prepared by the MDEQ's technical staff, and the letter from the St. Clair River Binational Public Advisory Council, dated March 27, 2009, supporting removal of the BUI.

We value our continuing partnership in the AOC Program and look forward to working with the USEPA, GLNPO, in the removal of BUIs and the delisting of AOCs. If you need further information concerning this request, please contact Ms. Christine Aiello, Aquatic Nuisance Control and Remedial Action Unit, Surface Water Assessment Section, Water Bureau, at 517-241-7504, or you may contact me.

Sincerely,

William Creal, Chief
Water Bureau
517-335-4176

Enclosures

cc/enc: Ms. Rose Ellison, USEPA
Mr. John Perrecone, USEPA
Mr. James K. Cleland, MDEQ
Ms. Diana Klemans, MDEQ
Mr. Richard Hobrla, MDEQ
Ms. Christine Aiello, MDEQ

**BRIEFING PAPER
REMOVAL OF THE TAINTING OF FISH AND WILDLIFE FLAVOR
BENEFICIAL USE IMPAIRMENT
IN 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 Environmental Quality (MDEQ), Area of Concern (AOC) Program, requests approval of its recommendation to remove the Tainting of Fish and Wildlife Flavor Beneficial Use Impairment (BUI) from the St. Clair River AOC. This request is being made in accordance with the process and criteria outlined in the *Guidance for Delisting Michigan's Great Lakes Areas of Concern* (Guidance), (MDEQ, 2008).

Background

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

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

In both the 1991 Stage 1 and the 1995 Stage 2 St. Clair River RAP (OMOE and MDNR, 1995), the status of the Tainting of Fish and Wildlife Flavor BUI was designated, binationally, as "requiring further assessment on a site-specific basis." This status determination was based on anecdotal reports of fish and wildlife tainting received from Walpole Island First Nation. By the time the MDEQ began development of the Guidance, Michigan had decided it would henceforth classify BUIs in only one of two ways: either "impaired" or "not impaired." So for BUIs that previously had been designated as "requiring further assessment...", the MDEQ elected, for purposes of applying the Guidance, to consider those BUIs as "impaired." Canada, in contrast, continued to recognize the intermediate BUI status.

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 request to remove the BUI on the United States side of the AOC originated from the OMOE on March 10, 2009 (see e-mail attached). That request received the support of the BPAC on March 27, 2009 (see letter attached).

The Guidance states that the Tainting of Fish and Wildlife Flavor BUI will be considered restored when:

- No more than three reports of fish tainting have been made to the MDNR or MDEQ for a period of three years.

OR, if there have been reports of tainting:

- A one-time analysis of representative fish species in an AOC in accordance with MDEQ, Water Bureau (WB), Surface Water Assessment Section (SWAS), Procedure No. 55, Fish Taste and Odor Studies, indicates that there is no tainting of fish flavor.

The Guidance also states that the Tainting of Fish and Wildlife Flavor BUI is due entirely to fish tainting in all three of Michigan's AOCs that have this listing (i.e., the Detroit River, Saginaw River/Bay, and the St. Clair River). This is incorrect for the St. Clair River AOC, which acquired the Tainting of Fish and Wildlife Flavor BUI in part due to anecdotal reports received from Walpole Island First Nation of tainted muskrat meat.

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

Again, the Tainting of Fish and Wildlife Flavor BUI was never actually designated as impaired within the St. Clair River AOC. Nevertheless, numerous measures have been implemented within the AOC that address the recommended point and nonpoint source actions detailed in the 1995 Stage 2 St. Clair River RAP, and many of these have undoubtedly played a beneficial role with respect to the Tainting of Fish and Wildlife Flavor BUI. These actions include reduced air emissions; significant upgrades to industrial and wastewater treatment facilities; sophisticated monitoring systems; Environmental Management Systems; installation of River Separation Programs; improved control over process water; ecological restoration of public and private lands through planting of native species; the purchase of degraded and natural habitats by public agencies; and improvements to tributaries via naturalization and bank stabilization.

Assessment of Restoration

Assessment of this BUI began in 1995 with a controlled olfactory sensory evaluation of tainting in walleye (Myllyoja and Johnson, 1995). Results of the study showed no difference in tainting between fish caught from within the AOC compared with fish caught upstream of the AOC. In 1996-1997, a survey of wildlife tainting was also conducted (Dawson, 2000). Of the 106 respondents to this survey, none reported tainting.

More recently, the St. Clair River Canadian RAP Implementation Committee (CRIC) developed a comprehensive survey of fish tainting to further assess this BUI (Mayne et al., 2008). This survey was conducted in 2007-2008 and sought input from members of the general public representing consumptive users of the resource, especially anglers and the Walpole Island and Aamjiwnaang First Nations. A total of 198 responses were received through this survey. Of these, 75 percent of the respondents were from Canada, 7 percent from the United States, 10 percent from Walpole Island First Nation, and 8 percent from Aamjiwnaang First Nation. When asked to comment on specific tastes and odors experienced during the preceding three years, the survey results showed that only two respondents identified the taste of fish from the St. Clair River as poor, and only three respondents identified the smell of fish from the St. Clair River as poor.

Based on the results of these assessments, CRIC recommended that the Tainting of Fish and Wildlife Flavor BUI be redesignated, on the Canadian side of the AOC, as “not impaired.” This recommendation was made to, and received the full support of, the St. Clair River BPAC on December 4, 2008, and the Four Party Managers on January 12, 2009. In fact, the BPAC fully supported redesignation of the BUI to “not impaired” on both the Canadian and the United States sides of the AOC based on the results of these three assessments.

The MDEQ then convened a Technical Committee to review this recommendation for BUI removal. This Technical Committee was comprised of Robert Haas, Fisheries Division, MDNR; Greg Brown, Division of Environmental Health, St. Clair County Health Department; Ernie Kafcas, Wildlife Division, MDNR; Judy Ogden, Blue Water Sport Fishing Association and the St. Clair River BPAC; Janice Littlefield, St. Clair River BPAC; Ted Briggs, OMOE; Rose Ellison, Great Lakes National Program Office, United States Environmental Protection Agency; and Joe Bohr and Christine Aiello, SWAS, WB, MDEQ.

The Technical Committee concluded that the Tainting of Fish and Wildlife BUI has been restored within the St. Clair River AOC. This conclusion is based on the following:

1. The determination, made by MDNR and MDEQ staff, that no complaints of fish or wildlife tainting have been received for the St. Clair River within the past three years.
2. The results of the surveys conducted in 1996-1997 and 2007-2008, and the determination, made by MDEQ staff, that these survey results satisfy the first tier of Michigan’s criteria for demonstrating restoration of the Tainting of Fish and Wildlife Flavor BUI.
3. The results of the 1995 controlled olfactory sensory evaluation of tainting in walleye; and the determination, made by MDEQ staff, that the methodology used in the evaluation was functionally equivalent to that of SWAS Procedure No. 55 and that it thereby satisfies the second tier of Michigan’s criteria for demonstrating restoration of the Tainting of Fish and Wildlife Flavor BUI.

Finally, a public comment period was provided, beginning May 11, 2009 and ending June 11, 2009, to allow the public the opportunity to review and comment on this BUI removal recommendation. No comments were received during this public comment period.

Recommendation

MDEQ, AOC Program, staff request approval of its recommendation to remove the Tainting of Fish and Wildlife Flavor BUI on the United States side of the St. Clair River AOC.

Prepared by: Christine Aiello, Senior Environmental Quality Analyst
Aquatic Nuisance Control and Remedial Action Unit
Surface Water Assessment Section
Water Bureau
Michigan Department of Environmental Quality
July 21, 2009

References

- Dawson, J. 2000. Fish Stories: A Profile of Fishing and Fish Consumption Along the St. Clair River Area. Health Canada Project K341813.
- Mayne, G., T. Briggs, and S. Thornley. 2008. St. Clair River Area of Concern Survey: A Report on the Quality of Fish Taste and Smell to Assess the Beneficial Use Tainting of Fish and Wildlife Flavor.
- MDEQ. 2008. Guidance for Delisting Michigan's Great Lakes Areas of Concern. Report No. MI/DEQ/WB-06/001.
- Myllyoja, R. and G. Johnson. 1995. St. Clair River Remedial Action Plan Fish Tainting Evaluation Draft Report.
- OMOE and MDNR. 1995. The St. Clair River Area of Concern Water Use Goals, Remedial Measures and Implementation Strategy, Stage 2 Remedial Action Plan.
- OMOE and MDNR. 1991. The St. Clair River Area of Concern Environmental Conditions and Problem Definitions, Stage 1 Remedial Action Plan.