



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 (MDNRE) letter of December 29, 2010, requesting the delisting of the Beach Closings Beneficial Use Impairment (BUI) in the Kalamazoo River Area of Concern (AOC). As your request points out and the supplied data support, the following restoration criteria for the Beach Closings BUI in the Kalamazoo River AOC has been met:

- Based upon guidance set forth in *Guidance for Delisting Michigan's Great Lakes Area of Concern (MDEQ, 2008)* for beach closings, no waterbodies within the AOC are included on the list of impaired waters due to contamination with pathogens in the most recent Water Quality and Pollution Control in Michigan Sections 303(d), 305(b) and 314 Integrated Reports.

Your supporting documentation states that existing MDNRE monitoring records indicate that the Beach Closings BUI criteria for water quality have been met and that the Kalamazoo River AOC is not listed as impaired for pathogens in the 2008 or 2010 Integrated Reports.

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 Beach Closings BUI in the Kalamazoo River AOC. EPA will notify the International Joint Commission (IJC) of this significant positive change in the environmental health of the Kalamazoo River AOC.

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

Gary V. Gulezian
Director

cc:

James K. Cleland, DNRE

Richard Hobrla, DNRE

John Riley, DNRE

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

John Haugland, AOC Liaison, USEPA-GLNPO

John Perrecone, AOC Coordinator, USEPA-GLNPO

USEPA-Office of International Activities



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENT
LANSING



REBECCA A. HUMPHRIES
DIRECTOR

December 29, 2010

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 (U.S. EPA), Great Lakes National Program Office's (GLNPO), concurrence with the removal of the Beach Closings Beneficial Use Impairment (BUI) from the Kalamazoo River Area of Concern (AOC). The Michigan Department of Natural Resources and Environment (DNRE) 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 Kalamazoo River AOC.

Enclosed please find documentation to support this recommendation, including the BUI Removal Recommendation document prepared by DNRE technical staff. The Kalamazoo River Public Advisory Council submitted a letter supporting this recommendation on May 27, 2010.

We value our continuing partnership in the AOC Program and look forward to working with GLNPO in the removal of additional BUIs and the delisting of AOCs in the near future. If you need further information concerning this request, please contact Mr. John Riley, Office of the Great Lakes, at 517-335-4122, or you may contact me.

Sincerely,

Ken DeBeaussiaert
Director
517-335-4056

Enclosures

cc/enc: Mr. John Haugland, U.S. EPA
Mr. John Perrecone, U.S. EPA
Mr. Richard Hobrla, DNRE
Mr. John Riley, DNRE

**Removal Recommendation
Beach Closings Beneficial Use Impairment
Kalamazoo River Area of Concern**

Issue

Based upon documentation review by a technical committee and in consultation with agency staff, the Michigan Department of Natural Resources and Environment (DNRE), Areas of Concern (AOC) program requests concurrence with its recommendation to remove the Beach Closings Beneficial Use Impairment (BUI) in the Kalamazoo River AOC. This request is being made with the support of the Kalamazoo River Watershed Council (KRWC) (which serves as the local Public Advisory Council [PAC]) and in accordance with the process and criteria set forth in the *Guidance for Delisting Michigan's Great Lakes Areas of Concern* (Guidance) (MDEQ, 2008).

Background

The Kalamazoo River watershed is located in the southwest portion of Michigan's Lower Peninsula and drains about 2,020 square miles from ten counties including Allegan, Barry, Calhoun, Eaton, Hillsdale, Jackson, Kalamazoo, Kent, Ottawa, and Van Buren. The river flows in a westerly direction and discharges into Lake Michigan near the city of Saugatuck. The Kalamazoo River AOC includes the lower portion of the river from Morrow Dam in Kalamazoo County near Galesburg to the mouth of the river in Allegan County at Saugatuck, as well as three miles of Portage Creek, upstream from its confluence with the Kalamazoo River (MDEQ, 2006).

The Kalamazoo River was listed as an AOC primarily due to historic releases of polychlorinated biphenyls (PCBs), which originated from de-inking operations at local paper mills. The Kalamazoo River AOC has eight BUIs associated with it, as determined according to Annex 2 of the Great Lakes Water Quality Agreement, including: Restrictions on Dredging, Loss of Fish and Wildlife Habitat, Degradation of Fish and Wildlife Populations, Degradation of Aesthetics, Bird and Animal Deformities, Restrictions on Fish Consumption, Beach Closings, and Degradation of Benthos. This document only addresses the Beach Closings BUI.

Removal Criteria

The Guidance criteria require that no waterbodies within the AOC are included on the list of impaired waters due to contamination with pathogens in the most recent Water Quality and Pollution Control in Michigan Sections 303(d), 305(b), and 314 Integrated Report (Integrated Report). No waterbodies within the AOC boundaries were listed in either the 2008 or the 2010 Integrated Reports (MDEQ 2008b, MDNRE 2010). A second tier of guidelines from the Delisting Guidance related to combined sewer overflows (CSOs) does not apply in this AOC because CSOs have not been reported, and the DNRE is unaware of any CSOs occurring in the Kalamazoo River AOC.

The restoration criteria are based on Michigan's Water Quality Standards (WQS) for bacterial contamination. Rule 323.1062 of Michigan's WQS sets the maximum concentrations of *E. coli* that are acceptable for waters of the state to meet total- and partial-body contact recreation uses.

Remedial Actions

There have been no specific Remedial Actions in the Kalamazoo River AOC for pathogens.

Ongoing regulatory and non-regulatory pollution cleanup and prevention activities at the watershed scale have reduced stated PAC and public concern over occasional spills and toxic algal blooms once thought to require body contact restrictions (KRWC, 2010).

Analysis

Existing DNRE monitoring records indicate that the Beach Closings BUI criteria for water quality have been met. The Kalamazoo River AOC is not listed as impaired for pathogens in the 2008 or 2010 Integrated Reports. Although it is understood that occasional spills due to wastewater infrastructure failure are serious and need to be addressed, the criteria provide for BUI removal based on monitoring data. Meeting the above criteria does not negate regulatory requirements for spill prevention and maintenance of wastewater infrastructure.

Although not part of the DNRE Guidance criteria for removing the Beach Closings BUI, concern has been expressed with regard to recreational contact with PCB contaminated sediments and river water. In May 2002, the Michigan Department of Community Health (MDCH), under a cooperative agreement with the Agency for Toxic Substances and Disease Registry, published a Health Consultation that examined the human health risks involved with recreational contact with PCB contaminated sediments and incidental ingestion of water and sediments during recreational use of the Kalamazoo River (MDCH, 2002). The Health Consultation concludes that, "...no apparent public health hazard is posed by the contamination of the sediment." And, "(b)ased on the PCB concentrations reported in the sediment and water of the Kalamazoo River, and considering the frequency of exposure to the sediments and limited absorption of PCBs from soils, there is no need to restrict access to the Kalamazoo River or Portage Creek."

Further, it should be noted that technical committee members are unaware of any designated beach areas located within the Kalamazoo River AOC. Consequently, there is no record of beaches being closed due to either bacterial or PCB contamination.

Recommendations

Based upon review of the data and technical input from the DNRE and the U.S. Environmental Protection Agency (USEPA) project staff, DNRE program staff recommend removal of the Beach Closings BUI and request that the Director of the Office of the Great Lakes submit a letter requesting concurrence from the USEPA to remove this BUI in the Kalamazoo River AOC.

Public Comment

December 7, 2010 is the deadline for Public Comment regarding the proposed removal of the *Beach Closings* Beneficial Use Impairment from the Kalamazoo River Area of Concern. The Removal Recommendation document can be viewed at: www.michigan.gov/deq/0,1607,7-135-3313---,00.html. Submit written comments to John Riley, Michigan Department of Natural Resources and Environment, Office of the

Great Lakes, PO Box 30273, Lansing, Michigan, 48909-7773, or to rileyj2@michigan.gov by midnight on December 7, 2010. If requested in writing, a public hearing may be scheduled. All comments received by December 7, 2010 will be considered prior to final action. Additional details on this proposed action may be obtained from: John Riley, Office of the Great Lakes, 517-335-4122, rileyj2@michigan.gov.

The preceding public notice was published in the November 8, 2010 and November 22, 2010 issues of the DNRE calendar on-line, in addition to being posted to the Mich-RAP listserv on November 10, 2010. Mich-RAP is an email listserve for the RAP and LaMP community in Michigan. It is a forum for sharing news and information related to the Areas of Concern and Lakewide Management programs in the state of Michigan. Not one public comment was received by the deadline. No one requested a public hearing, therefore one will not be held.

References

KRWC. 2010. Kalamazoo River Area of Concern: Overview and Request for Removal of the "Beach Closings" Beneficial Use Impairment.

MDCH. 2002. Michigan Department of Community Health, for the Agency for Toxic Substances and Disease Registry. Health Consultation Response to Comments. Allied Paper/Portage Creek/Kalamazoo River. Kalamazoo, Kalamazoo County, Michigan. May 2, 2002.

MDEQ. 2006. Correspondence between Rich Powers, MDEQ, and Gary Gulezian, USEPA, regarding recognized updates to Michigan Great Lakes Areas of Concern Boundaries.

MDEQ. 2008. Guidance for Delisting Michigan's Great Lakes Areas of Concern. MI/DEQ/WB-06/001.

MDEQ. 2008b. Water Quality and Pollution Control in Michigan: 2008 Sections 303(d) and 305(b) Integrated Report.

MDNRE, 2010. Water Quality and Pollution Control in Michigan: 2008 Sections 303(d) and 305(b) Integrated Report.

Prepared by: John Riley, Environmental Quality Analyst
Office of the Great Lakes
Michigan Department of Natural Resources and Environment
December 8, 2010



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Coordinator
Jeff Spoelstra

The Kalamazoo River Watershed Council is a public, non-profit 501(c)3 organization whose purpose is to work collaboratively with the community, government agencies, local officials and businesses to improve and protect the health of the Kalamazoo River, its tributaries, and its watershed.

408 E Michigan Ave
Kalamazoo Michigan
49007

269-978-4606

krwc@kalamazooriver.org
www.kalamazooriver.org

May 27, 2010

John Riley
Michigan Department of Natural Resources and Environment
Office of the Great Lakes

Dear John,

We are pleased to assist in the review and submittal of a formal request for *Removal of the Beach Closing Beneficial Use Impairment for the Kalamazoo River Area of Concern.*

Removing this listed Beneficial Use Impairment (BUI) of the Kalamazoo River Area of Concern (AOC) will not mean that the Council is no longer concerned that future problems with instream pathogens or water column polychlorinated biphenyls (PCBs) could arise. On the contrary, we are very concerned with the potential for agricultural wastes, degraded wastewater infrastructure, impervious surface runoff, and failing septic systems to release pathogens. And we remain concerned about PCB release from source areas, contaminated sediments, streambanks, and floodplains currently located in the river corridor, and the potential for natural disturbance or disturbance during Superfund related remedial river work. Either of these concerns could trigger future human contact restrictions or "beach closings".

Despite these concerns, we feel it is justifiable and desirable to remove this listed impairment of Kalamazoo River AOC. We feel confident that existing non-regulatory and regulatory watershed programs and groups of subwatershed stakeholders will detect, define, and correct such resource impairments in the future by working collaboratively with management agencies and other diverse partners.

Finally, we feel that the state and federal AOC programs must rely on existing watershed programs for restoration (e.g., Superfund and Natural Resource Damage Assessment) and pollution prevention programs (e.g., Clean Water Act nonpoint source and Total Maximum Daily Load) for tackling issues related to our original concerns under this impairment or getting ahead of these problems in the future with more effective land use planning and public education.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Spoelstra", written in a cursive style.

Jeffrey Spoelstra
Coordinator