



Ted Strickland
Governor

Chris Korleski
Director
Environmental Protection Agency

Sean D. Logan
Director
Department of Natural Resources

April 15, 2010

Lieutenant Colonel Daniel B. Snead, P.E.
District Commander
Buffalo District
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, NY 14207-3199

Re: Continuing Issues Pertaining to the Open Lake Disposal of Dredged Materials in Lake Erie's Western Basin, Including a Proposed Corps' Study on the Relationship Between Open Lake Disposal and Harmful Algal Blooms (HABs)

Dear Lt. Colonel Snead:

We are writing to you to generally discuss the perspective of the Ohio EPA and Ohio Department of Natural Resources (ODNR) on the continuing disposal of dredged material from the Toledo Harbor in the shallow western basin of Lake Erie. We also want to provide you with our perspective on a proposal made in the U.S. Army Corps of Engineers' (Corps) Public Notice regarding the maintenance dredging for Toledo Harbor (number 10-01), issued on September 8, 2009. The proposal was to "...reassess the potential for phosphorus released from Toledo Harbor dredged material to influence the phosphorus budget, and to promote the formation of HABs in the Western Basin of Lake Erie."

I. The Need for Dredging

First, we think all parties agree that it is of critical importance that the Toledo Harbor be sufficiently dredged so as to allow the Port of Toledo, and the industries which it serves, to continue to operate in a viable manner. Indeed, Ohio EPA has authorized the Division of Surface Water to issue the Section 401 Water Quality Certification (WQC) that will enable the Corps to "lake dispose" of 800,000 CY of dredged material in calendar 2010, beginning July 1, 2010. Please note that this WQC is applicable only to the 2010 calendar year.

The WQC permits the lake disposal of 800,000 CY of dredged sediment based on Ohio EPA's understanding that the "annual requirement" of sediment that the Toledo/Lucas County Port Authority would like to see dredged is actually in excess of 800,000 CY. However, it is also Ohio EPA's understanding that

approximately 100,000 CY of contaminated sediment will be dredged and placed in the CDF or some other contractor-designated storage area (i.e., not subjected to lake disposal). Further, based on the March 18th letter to you from Mr. Paul Toth, President and CEO of the Port Authority, it appears that there may not be the fiscal ability to dredge and/or dispose of 800,000 CY of material, notwithstanding the current “backlog” of un-dredged material which has accumulated in the Harbor over past years.

II. The General Environmental Consequences of Lake Disposal of Dredged Material

While Ohio EPA certainly feels compelled to keep the Port functioning, our concerns about environmental impacts likely resulting from the annual disposal of large amounts of dredged sediment in the shallow western basin of Lake Erie cannot be overstated. Certainly, we must mention the specific ecological issues of concern like algal blooms, light penetration and the potential impact on fish spawning. But even more fundamentally, it seems decidedly ironic for us to continue the current practice of open lake disposal of sediment while federal, state, and local governments are spending untold sums of money and enacting numerous regulations and ordinances to prevent soil and nutrients from entering and negatively impacting our waterways. This is especially so when the current disposal process consists of actually removing sediments from the harbor and bringing them “topside”, only to then dump and “re-entrain” the sediments even further out in the very shallow Western Basin of Lake Erie. Such re-entrainment of dredged material seems to directly contradict every soil conservation program, non-point source pollution prevention program, nutrient loading prevention program, and stormwater pollution prevention program that exists today. Common sense would suggest that we should be making every effort to act in accordance with what we require of others and spend public dollars to achieve. In short, Ohio EPA and ODNR strongly believe that a less environmentally harmful way of dealing with the dredged sediments must be found, funded, and implemented.

III. The Relationship Between the Lake Disposal of Dredged Material and Harmful Algal Blooms (HABs), and the Corps’ Proposed Study

As noted above, the Corps has proposed to “...reassess the potential for phosphorus released from Toledo Harbor dredged material to influence the phosphorus budget, and to promote the formation of HABs in the Western Basin of Lake Erie.”

Staff from the Corps’ Environmental Analysis Section have been in contact with staff from the Ohio EPA Division of Surface Water, and a meeting was held on March 12, 2010 in Sandusky, Ohio between the Corps (including staff from both the Buffalo District and the Engineer Research and Development Center), Ohio EPA, and ODNR to discuss the proposed study.

We thank the Corps for its good faith proposal and its interest in reviewing the HAB problem. However, after reviewing available information, discussing the issue within and among Ohio EPA and ODNR, consulting with the Ohio Lake Erie Commission, and listening to the opinions of members of Ohio's academic community, Ohio EPA and ODNR have concluded that we cannot support the proposed study.

We have reached this conclusion based on a number of reasons. First, we share the concern expressed by the Port Authority in their March 18, 2010 letter to you that funds designated for keeping the ship channel clear should indeed be used for that purpose. We do note, however, that Ohio has requested Great Lakes Restoration Initiative (GLRI) funds for the purpose of developing management options for Toledo Harbor sediment in cooperation with the Port Authority, the Corps, and other stakeholders. (GLRI funding has also been requested to help address the original sources of sediment and nutrient loading.)

Second, and more importantly, Ohio EPA and ODNR are already convinced that an excessive sediment/nutrient load to the Western Basin of Lake Erie is likely causing negative impacts, and possibly an exacerbation of HABs. We fear a three-year study will only serve to delay what we believe to be an obvious and necessary course of action, *i.e.*, a sustainable, long-term replacement for the practice of open lake disposal of dredged material must be found, funded, and implemented. This has been our position for many years now, and despite innumerable meetings, discussions, plans, Memorandums of Understanding, etc., no real progress on this issue has been achieved. [We do understand and appreciate that the Corps is making progress on the development of Habitat Restoration Units (HRUs). However, it is our understanding that under the current federal rules, cost limits may prevent the HRUs from being a solution to the problem of open lake disposal.]

At bottom, it seems that the State of Ohio and the Corps continue to go "round and round" over this issue because the practice of open lake disposal is believed by the Corps to be the lowest cost, environmentally acceptable sediment handling option (thereby assuming that the only cost is the actual "dollar cost" of dredging and dumping a CY of dredged material). Last year, we believe the actual dollar cost was roughly \$6.20 per CY. From our perspective, however, this \$6.20 dollar cost does not take into account the difficult-to-quantify costs of open lake disposal, including the costs of negative environmental impacts, and related impacts on the usability of the lake for recreation, fishing, drinking water, etc. We would add that a significant number of other parties agree with the State's position, based on, among other correspondence, resolutions passed by the Cities of Toledo and Oregon, and letters from members of the Ohio General Assembly, which are attached.

We cannot state our belief any more clearly: Open lake disposal of these huge quantities of dredged sediment in the Western Basin of Lake Erie is not

environmentally acceptable to the State of Ohio and needs to be discontinued. Instead, we must seek and find a way to eliminate open lake disposal and manage the sediment in an environmentally acceptable manner. Further, we must do so in a way that is not disruptive to the operations of the Port of Toledo.

Consequently, we are respectfully asking you to advise us on what needs to be done to end the practice of open lake disposal of dredged sediment from Toledo Harbor. If, as we expect, the answer is "find more money so we have the funds to implement an alternative disposal method", please let us know how Ohio and the Corps can work together to find this funding. It is our hope that by truly collaborating in a sustained and focused fashion, we will find an alternative disposal method, and the money to fund it, which will put an end to this practice forever.

We must also ask you if there are interim steps we can take to reduce the immediate impact of open lake disposal. For example:

- Can we delay the beginning of the lake disposal until later in the year, when cooler temperatures will help reduce the presence and extent of HABs?
- Can a certain amount of clean sediment be placed in the existing CDF, without significantly jeopardizing the intended life span of the facility, during the period in which we focus on finding, funding, and implementing an alternative disposal method? My understanding is that the current capacity of the CDF is roughly 1.9 million CY (less the considerable amount of water that would be added during the sediment transfer process). I also understand that it is the Corps' position that only contaminated sediment can be placed in the CDF. Can you please comment on this?
- Are there other alternatives that may be available for the short term such as raising the dikes of the CDF to expand the capacity?
- Are there upland alternatives that could be utilized on a temporary basis allowing the material to be placed on land, dewatered and then used for other purposes?

We thank you for your time and thoughtful consideration as you read this letter, and we eagerly look forward to your response. Again, it is our hope that with a sustained and concerted effort, working together, we can find a solution to this problem and bring an added degree of long-term **sustainability** to the biologically unique and economically valuable ecosystem of the Western Basin of Lake Erie.

If you would like to personally discuss this matter with us, please contact Director Korleski at (614) 644-2782 or Director Logan at (614) 265-6891.

Sincerely,



Chris Korleski
Director, Ohio EPA



Sean D. Logan
Director, ODNR

pc: Dr. Jeff Reutter, Director, Stone Laboratory
Paul Toth, Toledo Port Authority
Ed Hammett, Ohio Lake Erie Commission
The Honorable Marcy Kaptur, Congresswoman
The Honorable Sherrod Brown, US Senator
The Honorable George Voinovich, US Senator
The Honorable Matt Szollosi, State Representative
The Honorable Dennis Murray, State Representative
The Honorable Michael Bell, Mayor of Toledo
The Honorable Michael Seferian, Mayor of Oregon
City of Toledo Council Members
City of Oregon Council Members