

EIGHTEENMILE CREEK AREA OF CONCERN (AOC) SITUATIONAL BRIEFING

Eighteenmile Creek AOC

- The Eighteenmile Creek “impact” AOC, located in Niagara County, NY, includes Olcott Harbor at the mouth of the creek and extends upstream to the farthest point at which backwater conditions exist during Lake Ontario’s highest monthly average lake level (just downstream of Burt Dam). Upstream of the Burt Dam, the watershed is considered the “source” to the “impact” AOC.
- Eighteenmile Creek was designated as an AOC because of water quality and bottom sediment problems associated with past industrial and municipal discharge practices, the disposal of waste and the use of pesticides. Over the years, numerous contaminants have been identified in creek sediments which have a detrimental effect to the AOC and Lake Ontario. These contaminants include but are not limited to; Polychlorinated Biphenyls (PCBs); Mercury; Dioxins and Furans; Dieldrin; Mirex; DDT; Lead; and Copper.
- The Remedial Action Plan (RAP) process has identified five (5) of the fourteen (14) Great Lakes Water Quality Agreement beneficial uses as impaired for the creek. Impaired beneficial uses for Eighteenmile Creek include:
 1. Restrictions on Fish & Wildlife Consumption
 2. Degradation of Benthos
 3. Restriction on Dredging Activities
 4. Degradation of Fish and Wildlife Populations
 5. Bird or Animal Deformities/Reproduction Problems

Eighteenmile Creek Corridor Site

- The Flintkote Property located in Lockport, NY was acquired by Niagara County via tax foreclosure. Utilizing the NYSDEC Environmental Restoration Program, Niagara County assessed the property and discovered elevated concentrations of harmful contaminants, including lead and Polychlorinated Biphenyls (PCBs). Once this was discovered, Niagara County opted out of the Environmental Restoration Program and transferred the site to NYSDEC jurisdiction.
- In 2008, the Flintkote Property was combined with other nearby sites and dubbed the Eighteenmile Creek Corridor Site. The Corridor Site includes: the former United Paperboard property, 62-70 Mill St.; the former White Transportation property, 30-40 Mill St.; Upson Park, Clinton Street; residential and vacant properties along Water Street, lot numbers 97 to 143, all immediately south of the Flintkote site; and Flintkote itself, 198-300 Mill St.
- In 2008, the NYSDEC listed the site as a Class 2 site in the Registry of Inactive Hazardous Waste Disposal Sites in New York State. A Class 2 site is a site where hazardous waste presents a significant threat to the public health or the environment and action is required.
- The New York State Department of Environmental Conservation (NYSDEC) released a Record of Decision (ROD) for the Eighteenmile Creek Corridor Site in March 2010. The ROD finalizes the cleanup plan that will be implemented to address contamination at the Site. A \$22 million environmental cleanup is proposed for the site.

Eighteenmile Creek Legacy Act

- In 2008, Niagara County SWCD entered into a partnership with EPA and NYSDEC to **assess contaminated sediments** in Eighteenmile Creek, from Lockport to Olcott, NY. A 35% non-federal match is required for Legacy Act projects, so NCSWCD dedicated \$10,000 cash and NYSDEC dedicated approximately \$220,000 of in-kind services. NYSDEC in-kind services are equal to the States effort to characterize the Corridor site and other sites in the watershed. Furthermore, it was understood that NY Superfund dollars spent to actually clean up Flintkote

could be able to leverage federal funds to remediate the creek from Lockport to Olcott, NY. The estimated cleanup at the Corridor Site is \$22 million.

- Legacy Act rules changed in 2009 so that EPA can characterize sediment contamination in an AOC with 100% funded by the federal government. NCSWCD took advantage of this change and “banked” the cost share funds for the next phase of the project, Feasibility Study and Design. The 100% federally funded portion of the project is currently ongoing and expected to be completed in 2/11. The Feasibility and Design Phase (with the 35% local match from NCSWCD and NYSDEC) was expected to commence immediately after the conclusion of the assessment phase, sometime in early 2011.
- Due to budgetary issues in the State of NY, NYSDEC is proposing to refer the Eighteenmile Creek Corridor Site to the National Priorities List (NPL), also known as the Federal Superfund program. This means that the \$22 million will not be there to leverage a Legacy Act remediation project for the AOC. Furthermore, NYSDEC is also “pulling” the \$220,000 worth of in-kind services earmarked for the Feasibility and Design phase of the project to satisfy an expected 10% match to a federal superfund project for the Corridor Site.

WHAT DOES THIS MEAN???

- There will never be another opportunity to remediate contaminated sediments in Eighteenmile Creek and delist it as an AOC.
- The State of NY’s \$22 million has the potential to leverage \$45 million of federal funds to clean up Eighteenmile Creek.
- There is no other non-federal funding source available that is capable of leveraging these types of funds.
- There is no other non-federal funding source capable of cleaning up Eighteenmile Creek.
- The State of NY is basically turning a “leveraged” situation into a “non-leveraged” situation.
- If the Corridor Site reverts to the NPL, federal dollars will be spent to remediate the site. Federal dollars can’t leverage other federal dollars under Legacy Act.

Progress in the Eighteenmile Creek AOC will come to a GRINDING HAULT!!!

The Eighteenmile Creek Corridor Site must stay on the NYS Superfund Registry. The cleanup and eventual delisting of a NY Great Lakes Area of Concern depends on it.