

Draft Summary

New York Areas of Concern Management Meeting

April 18, 2013

Buffalo, New York

Participants: Seth Ausubel (EPA R2), Ed Bugliosi (USGS), Dave Cowgill (EPA GLNPO), Victor DiGiacomo (18 Mile Creek), Mark Filipiski (NYSDEC), Tony Friona (USACE), MaryBeth Giancarlo (EPA GLNPO), Bryan Hinterberger (USACE), Charlie Knauf (Rochester AOC), Fred Luckey (USEPA R2), John Perrecone (EPA GLNPO), Gerry Pratt (NYSDEC), Alicia Reinmund-Martinez (EPA R2), Amy Roe (USFWS), Mike Shaw (USEPA R2), Julie Sims (NOAA), Ted Smith (EPA GLNPO), Marc Tuchman (EPA GLNPO), Katherine Winkler (Buffalo Riverkeeper), Don Zelazny (NYSDEC), Steve Gibb (SCG Inc. – contractor).

Welcome and Introductions

Don Zelazny welcomed participants both in the room and on the teleconference line, noting that in combination with the AOC Workshop #7 on April 17, 2013, this meeting will help match objectives with available resources and refine reporting on progress to date to the many interested stakeholders tracking Great Lakes cleanup efforts. He said that the 2 days of meetings will enable the group to focus discussion on key strategic priorities.

Gerry Pratt echoed Mr. Zelazny's welcome, and stated that project planning could be better aligned with out-year budgets and advanced by the information the AOC coordinators provided in the AOC surveys. The AOC surveys form the information base of the meeting and have been posted to the NYSDEC FTP website:

ftp://ftp.dec.state.ny.us/dow/GreatLakesProgram/AOC_Meeting_2013-04-18/

Dave Cowgill of GLNPO added that having everyone aim for the same goals at the same time is critical in pursuing this work, and he thanked the AOC coordinators for the detailed information provided in the surveys.

18 Mile Creek Update

Victor DiGiacomo said that active projects in 2012 included a Powder Activated Carbon (PAC) pilot technology bench test for remediating contaminants in the creek, a baseline fish survey and collecting information on fish and wildlife consumption—all related to sediment toxicity characterization and remediation. The Superfund site designation hopefully will result in a Record of Decision (ROD) by the end of 2013. Long-term monitoring plans are moving to a 5-year interval, which should result in excellent trend data. Mr. DiGiacomo said that once PAC is

field tested, its feasibility will be more evident, and EPA Region 2 officials said they are closely tracking the pilot to see if it might be utilized in the three operable units that they anticipate will be designated under the Superfund program.

Ted Smith asked if the 18 Mile Creek AOC was considering 2014 GLRI/EPA Region 2 pass-through funds, and Michael Shaw of EPA Region 2 said that he would follow up with Ted on details related to that question.

Dave Cowgill asked if focusing on PAC might be premature as the Superfund process related to logistics, accessibility and other studies might take some time. Discussants noted that PAC has been used on the St. Lawrence River, but the results were not as positive as they were in the bench test conducted for 18 Mile Creek. Mr. Zelazny noted that whether to remove sediment from the creek will be a difficult decision because of the prime wetland habitat there. Mr. Cowgill suggested that PAC be postponed until more information is available on the remediation effort. Given the challenges, it is likely that the Superfund remediation effort will exceed 10 years and delisting would only follow after cleanup. Victor DiGiacomo said he expects that the AOC may have the “in recovery” status assigned to it for quite some time.

Victor DiGiacomo said toxics in fish are being surveyed and that removing the Benthos Beneficial Use Impairment (BUI) is slated for 2014. The Restriction on Dredging BUI is affected by the feasibility of PAC. Gerry Pratt said that NYSDEC can provide technical assistance in formulating delisting documents.

Other potential barriers to delisting include the fact that the Superfund site is an “orphan” site with no responsible parties to fund the sediment remediation effort. NYSDEC officials said that \$12 million in water quality resources would be made available state-wide soon through a Request for Applications and that the AOC could consider applying for funding. They added that agricultural improvement programs also may assist the AOC.

Buffalo River AOC

A 3-year Phenols study was launched on April 30, 2013, to evaluate the fish tainting (flavor) BUI. The criterion as written in the BUI is 3 consecutive years below established health benchmarks for Phenols. The AOC has established a detailed habitat restoration action plan with site-specific projects, some of which are scheduled to begin soon on the shores of the river. The liver histology protocol has been established to evaluate the Fish Tumors BUI. Ms. Jedlicka asked whether the tree swallows bird study being planned by USGS would affect the Bird/Animal Deformities evaluation BUI process. Mr. Smith said that the expectation is that USGS and other scientists should check with the local AOC coordinators before initiating studies in their region, and said he informed participants that a call to with GLNPO and the USGS scientists involved in the tree swallow work is being planned. The Kingfisher is thought to be the best sentinel species, and two sites where remediation is to take place have been selected for a focused survey. Discussants questioned whether the AOC is an optimal participant in the mink

study given their perceived limited numbers along the Buffalo River and questions about whether they can legally be trapped in the city.

A question arose about whether a model-based study on sediment, fish tissue and water quality data could be used to delist the AOC. In addition, the Degradation of Benthos BUI would be evaluated after dredging with the criteria being that two sampling events should show some improvement. The criteria for evaluating the Degradation of Aesthetics BUI also have been formalized into a signed agreement this year with an expectation that it will be removed by 2014. Ted Smith noted that there is some degree of subjectivity in judging aesthetics, and local perceptions are important.

To address the Loss of Fish and Wildlife Habitat BUI, Riverkeeper is implementing Phase 1 and 2 of the Riverbend project which will green more than a mile of shoreline. A detailed habitat plan spreadsheet has been shared, and five sites could begin the design phase soon. Ted Smith noted that Great Lakes funding can be channeled to local governments to manage habitat projects and inquired whether Erie County could manage others. Jill Jedlicka said that may be unlikely because of some ongoing city/county disputes over specific properties. The county can manage habitat projects on county sites, but the city may look to Riverkeeper to manage sites within the city limits. Based on the habitat project spreadsheet, priority projects will be selected in the next 6 weeks, according to participants. Pursuing a habitat partnership agreement with NOAA resources would probably be accepted by city officials.

Rochester Embayment AOC

Charlie Knauf stated that the AOC will be facilitating a public meeting on May 7, 2013, on the Fish Tumors BUI and that if there is a consensus, a formal request for removing that BUI will be forwarded to GLNPO in August of 2013. Fish and Wildlife Consumption BUI advisories may be removed by 2014 as there is only one lake-wide advisory now. Mr. Knauf's experience with fish tainting surveys is that they generate spurious data, and he will be drawing information from fish and wildlife officials and other sources to see if they have received any complaints.

A benthic invertebrate analysis will be conducted in the river, and the criteria for removing that BUI has been agreed to. A small mink survey will be completed in the summer and fall of 2013 to assist with determining whether animal deformities are present in the AOC.

A phone call is planned on the Restriction on Dredging BUI for May 24, 2013, to outline the removal document in light of a change in the delisting criteria put into effect in May of 2012. The AOC is interested in addressing undesirable algae and eutrophication issues but has been asked by the NYSDEC Division of Water to await action they plan to take to address this concern.

Discussants noted that wastewater treatment plants (WWTP) are not significant contributors to eutrophication but that nitrogen and phosphorous from agricultural runoff are in the watershed.

Most of the suspended sediments in the Lower Genesee River originate upstream. Rochester has an innovative combined sewer overflow system that significantly reduces sewage discharges into waterbodies, and WWTP generally contribute less than 10 percent of the nitrogen and phosphorous in the river. Work on eutrophication issues is on hold as the NYSDEC Office of Water initiates a program in the watershed.

The Stage 2 RAP includes an effort to work with the USDA to restore riparian buffers in upstream areas. Ms. Jedlicka noted that Rep. Brian Higgins (D-NY-26) is crafting legislation that would add resources to WWTP upgrades to reduce agricultural loadings.

Permits are under consideration by NYSDEC and the USACE to use algae-removal equipment at Ontario Beach so that it can remain open more often and improve the chances of removing the Beach Closings BUI.

A number of different criteria impact the Aesthetics BUI including no decomposing algae for 5 consecutive years and odors from chemical seepage near the falls on the Lower Genesee River. Key management actions may involve cleanup of the upper falls area and communications efforts on water issues that could lead to removal of this BUI based on the actions.

For the Degradation of Phytoplankton and Zooplankton BUI, the AOC anticipates a 2013 completion based on USGS research and revised removal criteria. The Remedial Advisory Committee (RAC) for the AOC will meet in May of 2013 to discuss riparian buffers along the river and lake and how the delisting criteria for the Fish and Wildlife Habitat BUI might be modified to account for extensive development during the past 25 years. Sturgeon are surviving in the river, but removing this BUI may take 8-10 years to accomplish if the criterion is that reproduction must be demonstrated. There are mink inhabiting and reproducing within the AOC, and the AOC has contacted licensed fur trappers so the captured mink can be checked for contaminants as part of the NY AOC-wide study.

Amphibian diversity and abundance evaluations show that while populations are not extensive, they are meeting the established criteria.

Mr. Pratt asked GLNPO whether continuing to remove BUIs piecemeal should be pursued or if a single Stage 3 RAP document should be crafted. Mr. Cowgill said the GLRI Action Plan for 2010-2014 has annual targets and measurements and that GLNPO wants to show incremental improvement by noting individual BUI removals. When there are only one or two BUIs left, the AOC should move ahead with delisting documentation. The Stage 3 RAP should chronicle the history of progress made in the AOC and append BUI removal-related documents.

In August 2014, the capacity grant supporting the AOC work expires, and Charlie Knauf would like to complete the work before he retires. Mr. Knauf suggested that the position of some of the recipients of GLRI research funding may have a bias towards keeping BUIs in the AOC listed so that resources are still available for their research.

Massena AOC

Steve Litwhiler discussed the recent Alcoa settlement and noted that the use of the funding from the Natural Resources Damage (NRD) recovery is still in the preliminary planning stages. The cleanup of the Grasse River, including the nearshore remediation, dredging and capping will likely take 7–8 years before decreases in toxic levels are apparent in fish tissue. A project is needed to support delisting the Fish Population BUI for the 2014 field season, and surveys of the rivers will likely cost around \$56 k. Dimitri Gorkski of USFWS is doing index netting and the AOC wants to use similar techniques for the remainder of the AOC.

The Fish Deformities BUI is being addressed by St. Regis Mohawk scientists looking at liver and other endpoints and the data analysis and a final report are expected in approximately a year. For the Degradation of Benthos BUI, a USGS report is due out later in 2013. There are large numbers of freshwater mussels in the three rivers of the AOC but not in the St. Lawrence River itself. For the Degradation of Phytoplankton BUI, USGS completed work on a report in October of 2012 and the AOC is crafting a delisting document now that will be finalized by the end of 2013. Work is underway on the Loss of Fish and Wildlife Habitat BUI and the recent settlement with the New York Power Authority (NYPA) may assist with habitat projects. The AOC needs contractor support to develop an action plan on habitat issues. Mr. Zelazny said that TetraTech is developing evaluation approaches to New York and Lake Ontario fish communities and that work could be leveraged to support the AOC. He also noted that NYSDEC needs time internally to develop plans for the resources and options available through various legal settlements and said the NRD impacts and rewards are unclear at this juncture.

Dr. Gorski said that to his knowledge, this is the only AOC using an Index of Biological Integrity (IBI) and asked if there was a standard criterion being employed such as “stable or increasing” or if comparison with a non-impacted area was the criterion. Another question was asked if Ohio had experience with that, and Tony Friona replied that Ohio uses an alternative method. AOC officials agreed that it has been a challenge to work on all the BUIs simultaneously, noting that 20 percent of the coordinators time is dedicated to the AOC.

The Grasse River cleanup is dependent on responsible party funding and long-term management well into the future. The cleanup, which is part removal, part cap and active remedial efforts that are expected to occur between 2016 and 2020 are expected to affect habitat in the short-term.

Niagara River AOC

For the Niagara River, Mark Filipksi noted that completing the remediation of eight hazardous waste sites and investigating potentially contaminated sediment at numerous locations are key focal points. A discussion regarding planning for the upcoming Legacy Act sediment characterization project followed, focusing particularly on the responsibilities of NYSDEC, EPA and EPA’s consultant. Mr. Cowgill mentioned that EPA did not yet have a consultant working on the project because the funding was not fully approved. Mary Beth Giancarlo explained that

EPA views New York State as a customer and would try to design the project according to the state's requests. She also said that the state could choose its own level of involvement in making project design decisions. Further exchange of information is expected after approval of funding.

The AOC has a solid funding source (NYPA relicensing settlement) for habitat projects. NYPA agreed to complete eight pre-selected projects and to provide funding for additional projects annually over the 50 year term of the license. Mapping invasive species, management planning and coastal wetland habitat are priorities, and funding options are being evaluated. Protecting existing soft shoreline and transforming hard shorelines are also in the works. Dr. Gorski offered USFWS assistance for addressing invasive issues, as the organization already is funded to do so using GLRI resources.

The fish tumors BUI may be ready for removal in 2015 assuming the study currently underway shows that the prevalence of tumors in brown bullhead is not excessive. The Stage 3 RAP may not be ready until 2020. There is no specific capacity grant for the Niagara River AOC, but if personnel costs associated with AOC administration were funded, estimated costs are \$160-200k per year.

Mr. Smith said that "best professional judgment" is critical to the program as there are few objective measurements or purely analytic tools for BUI removal. However, with local and state consensus from experts, the programs' judgments are well grounded in scientific information and community values. Looking at BUI delisting criteria across all the Great Lakes AOCs might be a helpful information resource for GLNPO to develop, particularly for issues like external fish skin tumors and how they were handled at Presque Isle Bay and Rochester. Mr. Smith said that Federal Science and Technology Advisory Committee calls are good avenues for exploring these issues as well.

Gerry Pratt thanked the participants for their questions and information and said that it was a very helpful discussion to AOC management and project planning going forward.

The meeting adjourned at 2:30 p.m.

Acronyms

AOC – Area of Concern

BUI – Beneficial Use Impairment

EC – Environment Canada

EPA – United States Environmental Protection Agency

FY – Fiscal Year

FFY – Federal Fiscal Year

GLLA – Great Lakes Legacy Act

GLNPO – Great Lakes National Program Office (U.S. EPA)

GLRI – Great Lakes Restoration Initiative

GLWQA – Great Lakes Water Quality Agreement

IBI – Index of Biological Integrity

IJC – International Joint Commission

LAMP – Lakewide Area Management Plan

NOAA – National Oceanic and Atmospheric Administration

NRD – Natural Resource Damages

NYPA – New York Power Authority

NYSDEC – New York State Department of Environmental Conservation

RAP – Remedial Action Plan/Panel

USACE – United States Army Corps of Engineers

USDA – United States Department of Agriculture

USFWS – United States Fish and Wildlife Service

USGS – United States Geological Survey

WWTP – Wastewater Treatment Plant