



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SECRETARY

December 14, 2012

Mr. James B. ...
Special Administrator
U.S. Environmental Protection Agency
Region 4
1200 ...
Washington, DC 20460

Mr. James B. ...
Special Administrator
U.S. Environmental Protection Agency
Region 4
1200 ...
Washington, DC 20460

The Penn Department of Environmental Protection (DEP) in consultation with the Presque Isle Bay Public Advisory Committee has prepared the enclosed final Stage 3 Remedial Action Plan (RAP) supporting the delisting of the Presque Isle Bay Area of Concern (AOC). This document and its accompanying RAP process have fulfilled the requirements of Annex 2, Section 4 of the Great Lakes Water Quality Agreement for the Presque Isle Bay. This letter requests that the United States Environmental Protection Agency (EPA) proceed with the necessary steps to delist the AOC.

In 1984, the United States Fish and Wildlife Service received reports from local anglers of brown bullhead catfish (*Ameiurus nebulosus*) with external lesions and/or tumors caught in Presque Isle Bay, Erie, Pennsylvania. In 1991, due in part to concerns about these external anomalies and at the request of local citizens, the United States Department of State designated Presque Isle Bay the 43rd AOC under the Great Lakes Water Quality Agreement. Two beneficial uses were identified as impaired: restrictions on dredging activities and fish tumors or other deformities. The bay became the first American AOC to be designated in the Recovery Stage in 2002 and the restrictions on dredging beneficial use impairment (BUI) was delisted in 2007. Following the Recovery Stage designation, investigations on the fish tumor BUI included monitoring of tumor rates, identification of a reference site for comparison, and research into the cause of the tumors.

Beginning in February 2012, DEP consulted with the Presque Isle Bay Public Advisory Committee on the rationale supporting this decision. The Public Advisory Committee was convened on February 21, 2012, May 21, 2012, and June 18, 2012 to discuss delisting and provide comment on the Stage 3 RAP. On July 23, 2012, the Public Advisory Committee voted in favor of DEP's proposal to delist.

DEP solicited public comments related to the Stage 3 RAP in Special Notices published in Volume 42, Number 31 (August 4, 2012) and Number 37 (September 15, 2012) of the *Pennsylvania Bulletin*. Two public availability sessions were held August 10, 2012, and August 28, 2012, which were advertised in the *Pennsylvania Bulletin* and in local newspapers. DEP received ten sets of comments during the public comment period. The comments were organized into themes and a response document is being published in the *Pennsylvania Bulletin* and posted on the Public Advisory Committee's Web site (www.pibpac.org).

The Stage 3 RAP presents specific targets to delist the final BUI, fish tumors or other deformities, and as a result the Presque Isle Bay AOC. DEP's recommendation to delist the fish tumors or other deformities BUI is grounded on the best science and technology available today. The decision is based on numerous investigations, sampling events, and consultation with the leading experts in brown bullhead investigations. While there is year-to-year variation, since the Recovery Stage designation in 2002 the incidence of liver and external tumors the bay's brown bullhead population has remained stable with little statistical difference in rates between sampling years. Incidence rates of both liver and external tumors remain well below the high levels seen in the early 1990s. Liver tumor rates, the end-point for which exposure to environmental contaminants is more clearly linked to sediment PAH contamination, are statistically indistinguishable from the Long Point Inner Bay reference site. The incidence of external tumors, however, remains elevated when compared to the reference site.

Because there are known legacy contaminants in the sediment regardless of their relationship to the bullhead tumors, DEP commissioned ecological and human health risk assessments. Using appropriately conservative assumptions and existing data, both risk assessments concluded that cancer and noncancer risks posed by legacy contaminants in the Bay's sediment and fish are below targets for human health and ecosystem protection.

It may not be possible ever to fully restore this BUI due to the external tumors. Reviewing both the International Joint Commission and United States Policy Committee guidelines and principles, it seems clear that external tumors and, to some extent liver tumors, are a lakewide phenomenon. Whatever is happening in Presque Isle Bay is occurring elsewhere in both AOC and non-AOC locations to both a lesser and greater extent.

In recommending the delisting of the AOC, DEP determined that removal of sediment by dredging the bay is unnecessary; remedial measures with the greatest direct benefit to the bay are done; other watershed measures that positively impact the bay are ongoing; existing air and water discharges are permitted and monitored; no other species of fish or benthic organism appear to be impacted; and both the human health and ecosystem health assessment concluded that the existing conditions in the bay do not increase either cancer or noncancer risks to people or the environment. Additionally, DEP re-evaluated the twelve beneficial uses not listed as impaired for the AOC. Using the most recent data available, DEP determined that none of the twelve were impaired.

The goal of the AOC program as defined under the Great Lakes Water Quality Agreement is to insure that AOCs, which have been defined as areas where human activities have caused or are likely to cause significant impairment of local beneficial uses of water resources, are improved to the point where their environmental conditions are equal to other non-AOC locations across the Great Lakes. Those conditions may not be pristine but are consistent with the ambient environmental conditions elsewhere in the Great Lakes.

December 14, 2012

DEP believes that the RAP process has accomplished its goal to the maximum extent practicable and the ultimate identification of the causes of the external tumors needs to be addressed outside the scope of the AOC program. Based on the decreased and stable tumor rates, review of the available scientific evidence, and in close consultation with local and national experts and the concurrence of the Presque Isle Bay Public Advisory Committee, DEP recommends delisting the Presque Isle Bay AOC. If you have any questions, please contact Lori Boughton, by e-mail at lboughton@pa.gov or by telephone at 814.332.6879.

Sincerely,



Michael L. Krancer
Secretary

Enclosures

cc: Dana Aunkst, DEP
Kelly Heffner, DEP
Patricia Allan, DEP
Katherine Gresh, DEP
Kelly Burch, DEP
Cameron Davis, EPA Region 5
Chris Korleski, EPA Region 5
Scott Ireland, EPA Region 5
John Perreconne, EPA Region 5
Dave Cowgill, EPA Region 5
Jon Capacasa, EPA Region 3
Ed Ambroggio, EPA Region 3
Ron Lybrook, DEP
Jim Grazio, DEP
Jim Rutkowski, PIB PAC Chair