



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

October 8, 2009

Mr. Bill A. Roderick, Acting Inspector General
Office of Inspector General
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW (2410T)
Washington, DC 20460

Dear Mr. Roderick:

We recently reviewed a report issued by your office entitled "EPA Needs a Cohesive Plan to Clean Up the Great Lakes Areas of Concern." We believe the report is unfairly critical of the leadership of the U.S. Environmental Protection Agency (U.S. EPA), Great Lakes National Program Office (GLNPO), and fails to take into account the resource requirements and the technical and legal complexity of contaminated sediment cleanups.

The Michigan Department of Environmental Quality (MDEQ) has full or partial jurisdiction over 14 of the 31 United States Areas of Concern (AOC). We worked cooperatively with the U.S. EPA to implement two of the first three contaminated sediment cleanups accomplished under the Great Lakes Legacy Act – at the Black Lagoon in the Detroit River and at Ruddiman Creek near Muskegon Lake. We have been working in full partnership with the U.S. EPA and other government agencies and stakeholders on the AOC Program for more than 20 years. We are well-qualified to understand both the strengths and weaknesses of the AOC Program and the Great Lakes Legacy Act.

The primary reason for the slow pace of progress in the AOC Program is not the lack of an effective strategy by the GLNPO; it is a lack of resources. The cost of remediating contaminated sediments is massive. Even a small-scale cleanup usually costs millions of dollars. The locales designated as AOC generally represent the most contaminated sites in the Great Lakes. There are seldom viable responsible parties available to fund the cleanups and the remediation costs exceed the resources of state and local governments, particularly in these difficult economic times.

The enactment of the Great Lakes Legacy Act in 2002 was the first time a significant amount of money was directed at the AOC Program. As pointed out in the report, five Great Lakes Legacy Act funded projects have been completed resulting in the removal of approximately 800,000 cubic yards of contaminated sediment. The report also points out that the requirement for state and local governments to come up with the 35 percent nonfederal share is a significant obstacle to leveraging Great Lakes Legacy Act funding. The requirement for the 35 percent nonfederal share is part of the statutory language of the Great Lakes Legacy Act. The GLNPO does not have the authority to waive the requirement and an AOC management plan is not going to overcome this obstacle. The Great Lakes

Mr. Bill A. Roderick
Page 2
October 8, 2009

Legacy Act also precludes the GLNPO from actively soliciting sediment projects. They can only react to the proposals they receive. One solution is to revisit the statutory language of the Great Lakes Legacy Act and reduce or eliminate the requirement to provide a 35 percent nonfederal share.

The report recommends that the Great Lakes National Program manager assign a lead U.S. EPA office to each sediment remediation site. We agree that this would be valuable; however, we do not expect that such a move would eliminate conflicts between regulatory programs. Sediment remediation projects are often complicated, in part, because there are multiple programs that have jurisdiction and all applicable requirements must be satisfied. Designating a lead office does not empower the U.S. EPA to selectively ignore regulatory requirements. We recommend that the U.S. EPA consider establishing a work group with representation from all of the programs that have regulatory oversight of contaminated sediment remediation projects. The work group should be charged with examining the relevant regulations with the goal of recommending statutory changes that would improve and streamline remediation projects.

The report is also critical of the GLNPO for failing to develop a comprehensive inventory of contaminated sediment sites including volumes and cleanup costs. This recommendation fails to consider the resource costs in both time and money of developing such an inventory. Inventorying a site to determine the contaminants present and the volume of contaminated sediments is a time-consuming, expensive process requiring a lot of specialized sampling equipment and large lab analysis expenditures. It is imperative that most of the limited funds available for the program be spent on remediation rather than site characterization. While it is certainly important to investigate and assess new sites as they come to our attention, we cannot set aside the work of addressing known sites.

In summary, the biggest impediment to progress in remediating contaminated sediments in AOC is lack of funding. The Great Lakes Legacy Act has been an important first step in addressing that issue. Progress has been further hampered by conflicts between regulatory programs. Designating a lead agency for each cleanup will help in that regard, but the U.S. EPA should consider examining the governing regulations more closely with an eye toward reducing the conflicts. Finally, the U.S. EPA should continue to characterize contaminated sediment sites, but should not set aside the important work of on-the-ground remediation.

If you have any questions concerning these recommendations, please contact Mr. Richard Hobrla, Chief, Aquatic Nuisance Control and Remedial Action Unit, Surface Water Assessment Section, Water Bureau, at 517-335-4173, or you may contact me.

Sincerely,


Steven E. Chester
Director
517-373-7917

Mr. Bill A. Roderick

Page 3

October 8, 2009

cc: Michigan Congressional Delegation
Mr. Cameron Davis, U.S. EPA
Mr. Gary Gulezian, U.S. EPA
Mr. Bharat Mathur, U.S. EPA
Mr. Joe Dooley, Governor's Washington Office
Mr. Ken DeBeaussaert, Director, Office of the Great Lakes
Mr. Jim Sygo, Deputy Director, MDEQ
Ms. JoAnn Merrick, Chief of Staff, MDEQ
Mr. William Creal, MDEQ
Mr. James K. Cleland, MDEQ
Ms. Diana Klemans, MDEQ
Mr. Richard Hobrla, MDEQ