



MICHAEL P. BELL
MAYOR

January 29, 2010

Ohio EPA – DSW
Attention: Permits Processing Unit
P. O. Box 1049
Columbus, Ohio 43216-1049

Re: Toledo Harbor Dredging Section 401 Water Quality Certification

Ladies and Gentlemen:

These comments on the proposed Toledo Harbor Dredging Section 401 Water Quality Certification are submitted on behalf of the citizens of northwest Ohio in our capacities as Mayor of the city of Toledo and Director of Toledo's Department of Public Utilities.

Interest

Toledo's has numerous interests in this proceeding. Toledo operates a water treatment and distribution system serving over 500,000 people in northwest Ohio and southeast Michigan. The water plant has its intake in Lake Erie only a few miles from the site of the proposed open lake disposal of dredged sediments.

Suspended sediments and associated contaminants can and do reach the intake and enter the raw water treatment process. It will take significant additional treatment to maintain the award-winning taste and top quality of Toledo's finished water product as the sediment load reaching the treatment plant increases. Further, as more stringent drinking water regulations are enacted, an increase in sediment loadings may require additional more expensive treatment processes to ensure that Toledo's drinking water continues to exceed federal and state standards.

Toledo is beginning the seventh year of a \$500 million project (Toledo Waterways Initiative) to reduce combined sewer overflows, eliminate sanitary sewer overflows and minimize the bypassing of sewage at the city's wastewater treatment plant. To date, more than \$200 million of \$480 million pledged has been spent primarily at the wastewater treatment plant to double its treatment capacity and to enable it to capture and provide proper treatment to wet weather flows. Toledo is vitally concerned with any activity that will negatively impact its costly efforts to remove particulate and biological contaminants from entering the Maumee Bay.

In addition, many of northwest Ohio's 700,000 residents utilize the Maumee Bay for fishing, boating and recreation. Any activity that causes a loss or impairment of fish and wildlife habitat adversely affects our quality of life.

History

In 1987, Ohio EPA determined that open lake disposal of sediments from the dredging of Toledo's harbor was unacceptable. In 1991, the U.S. Army Corps of Engineers decided that certain sediments dredged from the lake approach channel were suitable for open lake disposal. Ohio EPA, along with the city of Toledo and the Toledo-Lucas County Port Authority disagreed with the Corps' determination and requested the phase-out of open lake disposal. In response, the Corps prepared a Long Term Management Strategy (LTMS) that identified a number of voluntary goals to reduce sediment loadings and other sources of sediment contamination while developing marketable beneficial uses for the dredged material. However, few of the commitments made in the LTMS were ever undertaken by the Corps.

Ohio EPA continued to maintain that open lake disposal of dredged sediments impacted lake ecology by reducing water clarity. In March 2004, it issued a five-year (2004-2008) water quality certification to the Corps of Engineers for the annual dredging of the Toledo's harbor. The first year of the certification period required the Corps to beneficially reuse or provide upland disposal to 20% of the dredgings. The remaining 80% could be disposed in the open lake. In each of the remaining four years, an additional 20% of the dredgings was required to be beneficially reused or disposed of upland while the amount of open lake disposal was to decline by 20%. By 2008, all of the dredging material was to be beneficially reused or subject to upland disposal and there was to be no open lake dumping.

In April 2004, the Corps of Engineers appealed Ohio EPA's water quality certification to the Environmental Review Appeals Commission. After negotiations, the Corps of Engineers, Ohio EPA and the Attorney General's Office reached a settlement in July 2005. The settlement restricted the Corps to open lake disposal of 600,000 cubic yards of dredgings each year from 2005 through 2007. It also resulted in a Memorandum of Agreement between the parties that focused on the development and implementation of habitat restoration units (HRUs) using the Toledo harbor dredged materials.

Despite the settlement of the appeal, the Corps has done little to increase the beneficial use of the harbor dredgings or to create HRUs. In 2007, the Corps again sought a water quality certification for the annual dredging of the Toledo harbor. Again, Ohio EPA granted the certification. In its response to filed comments, Ohio EPA stated in 2008:

"To manage sediment after it enters the waterway, Ohio EPA believes that beneficial reuse of dredged material is necessary to minimize and eventually eliminate the need to place dredged material from Toledo Harbor into the existing open lake disposal location in Lake Erie's western basin. To this end, renewable uses of dredged material have been and are being pursued. Ohio EPA continues to meet with the Corps, Ohio Department of Natural Resources and other stakeholders to examine beneficial reuse options for dredged material from

Toledo Harbor, and to monitor the progress being made towards the development and implementation of those efforts.”

In short, the city of Toledo has not seen any progress toward the beneficial reuse of dredged material despite the promises continually made by Ohio EPA and the Corps.

The current request now seeks to greatly increase the amount of open lake disposal from the previous request of 1,250,000 cubic yards annually to 1,900,000 cubic yards annually. Of this amount, only 10% would be placed in a confined disposal facility. Further, the application does not commit to any level of beneficial reuse. If Ohio EPA has been working with the Corps to develop environmentally friendly alternatives to open lake dumping, it is not apparent to us that any progress has been achieved.

Comments

1. The City of Toledo supports the dredging of the Toledo harbor. Nevertheless, the disposal of the dredged material should be handled in an environmentally responsible manner that maximizes the amount of beneficial reuse and minimizes the amount of open lake disposal.

2. The conditions that led Ohio EPA in 1987 and 2008 to declare the open lake disposal of sediment from the dredging of the Toledo harbor to be unacceptable have not changed. If anything, the need to preserve the water quality of the Maumee Bay has increased during the intervening period as demonstrated by frequent beach closings and algae blooms. Ohio EPA should again declare that open lake disposal of dredgings is unacceptable and reject both the preferred alternative (1,900,000 cubic yards of open lake disposal) and the minimum degradation alternative (1,250,000 cubic yards of open lake disposal) requested by the Corps.

3. The State of Ohio has received little cooperation from the Corps despite its agreements and commitments to promote the beneficial reuse of dredged materials. Despite an apparent lack of effort or success in protecting the western basin of Lake Erie, the Corps now seeks to substantially increase the open lake disposal of the dredgings with no increase in the amount of beneficial reuse. In fact, there does not appear to be a commitment for any beneficial reuse of dredged materials. At a minimum, Ohio EPA should limit the Corps to the open lake disposal 80% of the dredgings in the first year with a decrease of 20% in each succeeding year.

4. The Corps presents no data concerning the loadings or impact of the disposal of 1,900,000 cubic yards of dredgings in the open lake. The Corp should be required to prepare an environmental impact statement utilizing Ohio EPA approved criteria that addresses the affect on aquatic life and habitat with the addition of such a large amount of dredgings.

5. Studies have shown that 25% of dredged material placed in the open lake can remain suspended in the water column for up to twenty-four hours. With a current of 0.2 – 0.3 mph, the suspended materials typically can travel up to eight miles. This

puts the suspended material within easy range of Toledo's water intake and the city of Oregon's water intake as well. The Corps should be required to document the impact of the suspended materials on the quality of water produced by those two municipal water treatment facilities.

Attached is Resolution 23-10 adopted by Toledo City Council on January 19, 2010 seeking to minimize open lake dumping to the greatest extent possible. We support the positions stated in the resolution and incorporate them herein as part of our comments.

Sincerely,



Michael P. Bell, Mayor
City of Toledo
One Government Center, Suite 2200
Toledo, Ohio 43604
(419) 245-1001



Thomas S. Crothers, Director
Department of Public Utilities
420 Madison Ave., Suite 100
Toledo, Ohio 43604
(419) 245-1318

MPB/TSC/mjs

Attachment

cc: Toledo City Council President Wilma Brown
Members of Toledo City Council
Mayor Michael Seferian, Oregon, Ohio
Members of Oregon City Council
David E. Leffler, Commissioner, Plant Operations
John D. Walthall, Manager, Water Treatment
Kerry Bruce, ERP Administrator
Tim Murphy, Manager, Environmental Services
Lieutenant Colonel Daniel B. Snead, P.E.,
District Commander, U.S. Army Corps of Engineers

(Ohio EPA dredging 012910 letter)