

St. Marys River AOC BPAC Meeting Minutes

Place: LSSU, Ontario Room
Sault Ste. Marie, Michigan

When: April 26th, 2017
6:30 – 8:30 p.m.

1. Call to order/introductions

Members: Paula Antunes, Klaas Oswald, Don Marles, Emily Martin, Jesse Wesolek, Brian Wesolek, Mary Rossiter, James Dukes, Greg Zimmerman, Mike Ripley, Ron Prickett, Alexia Whisler

Agency Reps: Lisa Derickx (Algoma U), John Riley (MDEQ), Aubrey Maccoux-LeDuc (BMIC, SPAC rep), Shane Albrecht (Chippewa Health Department)

Guests: N/A

2. Approval of Last Meetings Minutes

- February 1st, 2017 – Approved as presented
- March 13th, 2017 – Approved as presented

3. Business arising from previous minutes

- BPAC Terms of Reference and update member and participant list
 - Don Marles to email the Terms of Reference to all BPAC members. The membership list has not been revised since October 2014. The list was circulated to members in attendance for corrections.
 - Action Item: Don Marles will email an updated list and Terms of Reference to all members.
- Comments on draft Triennial Assessment of Progress on Great Lakes Water Quality. Presentations held at IJC public meetings, as well as the one hosted in SSM, are now posted for viewing.
 - Action Item: Lisa will email BPAC members the link to presentations.

4. Presentations

- N/A

5. Office Reports

- **Ontario RAP office:**
 - The RAP Coordinator continues to work on the draft beach closings re-designation report, which will be sent out for review by BPAC prior to the next meeting.
- **LSSU office:**
 - Continued work on script for Kayak tour, which will showcase environmental history of several areas within the AOC.
 - Funding runs out end of June and didn't apply for another round of funding
 - Celebration for delisting of SuperFund site at the tannery has been delayed.
 - The Smithsonian Institute has a WaterWays traveling exhibit that LSSU is interested in hosting. Greg will keep BPAC updated.

- **SPAC update:**
 - SPAC meeting took place March 28th alongside the State-wide AOC conference.
 - Lots of discussion on outreach – highlights were some of the work the Great Lakes is doing concerning GLRI (which is getting lots of positive support)
 - The Menominee River (Michigan, Wisconsin) will be listed as one of the 10 most endangered rivers in the U.S. Unfortunately the title doesn't give it government protection but it is positive that it is getting attention.
- **State-wide AOC Conference:**
 - A statement was made by the USEPA regarding binational AOC delisting. The intent seems to be that they could delist one side of the river and not the other (i.e. delisting would be unilateral and not binational). BPAC had been told by EPA and DEQ in the past that unilateral delisting wouldn't occur without mutual concurrence.
 - BPAC comments: Both Canada and Ontario are signatories so Canada and Ontario would have to agree or it wouldn't occur. The IJC will also play a role.
 - Action Item: draft an opinion letter in regards to unilateral delisting.

6. Agency Updates

Environment and Climate Change Canada (ECCC)/ Ontario Ministry of the Environment & Climate Change (OMOEC)

Fish Tumours BUI

- ECCC is waiting for a third-party review of the B.C. Ministry of Agriculture's analysis of liver samples taken from 100 White Suckers collected in summer 2015. Preliminary results show four (4) fish have liver tumours, which is an improvement over the 10.6% tumour rate (15 out of 141) from the 2009 survey. There are uncertainties with a few other samples and a second opinion is being sought.

RAP Implementation Annex

- ECCC is working with MOECC and Lisa Derickx to complete the annual update to the Canadian Remedial Action Plan Implementation Annex. A draft will be circulated to BPAC for review and comment. Accounting for activities and accomplishments in 2016-17, the update will add to previous versions of the document, which: 1) takes stock of completed actions and achievements since the Stage 2 RAP (2002) within the Canadian portion of the AOC; 2) describes current ecological conditions as articulated by the relevant beneficial use impairments and associated delisting criteria; and 3) outlines the remedial actions, monitoring and assessment needs going forward.

United States Environmental Protection Agency (USEPA)

Ted Smith was promoted to a managerial position within the US EPA's Great Lakes National Program Office. John Perrecone has replaced him as the EPA lead for the St. Marys River Area of Concern.

Michigan Department of Environmental Quality (MDEQ)

The Little Rapids Habitat Restoration project is complete, with the exception of minor paving, planting and pavement marking, which will be addressed in late May or early June. Ecological monitoring has already begun by a team led by Ashley Moerke, of LSSU. Larval fish, adult fish, benthos, and bathymetry assessments are all part of the post restoration monitoring that will take place in 2017.

Two celebration events are being planned, one is tentatively scheduled for Saturday, June 10. The focus will be a community outreach and education program, extolling the benefits of the project, and encouraging use of the new fishing access. This event is being coordinated by Rebecca Bolen, of Eastern U.P. Regional Planning and Development.

The second event is being planned as a podium style media event, with the dedication of a brass plaque commemorating the project. Speakers will include representatives from the various federal and state agencies involved with the project, along with the Great Lakes Commission, the Chippewa County Road Commission, elected officials, tribes, BPAC, the Soo Area Sportsman's Club and others. Invited guests will include media, the community and other stakeholders. This event will take place in July or August, but a date has not yet been set.

We have a draft Removal Recommendation for the Restrictions on Dredging Activities Beneficial Use Impairment for the US side of the St. Marys River AOC. Following incorporation of any feedback from the BPAC, and with input from EPA's GLNPO, the document will be reviewed by Environment and Climate Change Canada and the Ontario Ministry of the Environment and Climate Change, there will also be a 30 day public comment period. Official removal of the BUI is anticipated in the fall of 2017.

7. Memberships

- For new members, applications must be received & prospective members present for confirmation – standard procedure.
- Letter received from Alexia Whisler – All in favour.

8. New Business

- Michigan's Removal Recommendation for the Restrictions on Dredging BUI for the US side of the St. Marys River Area of Concern – John Riley
 - John Riley emailed the DRAFT removal recommendation for the Restrictions on Dredging BUI to the BPAC in advance of the meeting for review.
 - Michigan's restoration criteria state that this BUI will be considered restored when: "During the most recent routine dredging in the U.S. Army Corps of Engineers (COE) designated navigational channel, use of a confined disposal facility or TSCA –level landfill for dredge spoils was not required due to chemical contamination". It was re-iterated that this BUI just encompasses the federally maintained navigation channel.
 - John believes that known contaminated sediment sites have been addressed (The tannery and manufactured gas plant sites were remedied). Contaminated sediment data from Lake George channel and Little Lake George show that some contaminants remain, however the levels are low (below actionable levels).
 - BPAC Question/comment: Looking for clarification on whether the specific wording of the BUI pertaining only to the navigation channel is incorporated within the Great Lakes Water Quality Agreement? This could not be verified.
 - In 2014-2015 the U.S. Army COE dredged and placed material at the Neebish Island disposal site and the Northeast Pier. A total of 30 cores were tested. The entire channel was not dredged. The sample sites were located downstream of Sault Ste. Marie, on the west side of Sugar Island through Nicolet Lake, on the west side of Neebish Island, and near Moon Island at the north end of Munuscong Lake.
 - Question: When dredging occurs in the future will it always be tested? Yes
 - Questions: Why do we need to remove the Restrictions on Dredging BUI now? Can we wait until the next dredging to occur?
 - Response: Federal funding issues and unknown when dredging will occur again.
 - Questions: Is it reasonable to delist the whole navigational channel?
 - Response: John recognizes that this doesn't take into account the entire system but the theory is that it is representative of the entire system.

- Questions: Is that reasonable assumption?
 - Response: Yes, in terms of clean ups that have been done – the contaminant sediment sites have been dealt with.
- Data tables for contaminants was discussed and can be reviewed following the link to the report by the U.S. Army COE: <http://bpac.algomau.ca/wp-content/uploads/2017/04/Federal-Navigation-Report-John-Riley.pdf>
- Question: If sampling and dredging begin at the same time, does dredging continue non-stop? Even though the analysis after the first bit of dredging is not done? If there were toxins and levels above allowable limit it would be unknown at the time since the dredging was continuous.
 - Response: John acknowledges the potential for that to occur and that it could have been an issue.
- Question: Is the State's restriction criteria based on an average of samples or based on the single highest sample?
 - Response: John not certain. Regardless, in this case there were no exceedances.
- Questions: What gives you confidence that this is true for entire navigational channel?
 - Response: John admits that it is an assumption but the theory is that it is a representative sample of the system as a whole.
 - Question: Is there no money to take some additional samples along the entire navigational channel for verification?
 - Response: Funding constraints
- Clarification was made that there are two different sets of delisting criteria – one specific to Ontario and the other specific to Michigan.
- John requests for a letter of support from the BPAC.
 - Mike Ripley puts a motion to accept and write a letter of support based on the fact that the BUI pertains only to the designated navigational channel and that the dredged materials do not need to be placed in a confined disposal facility or TSCA-level landfill.
 - Ron Prickett speaks against the motion – the principle of removing a BUI based on the assumption that the small sample area applies to the whole channel. Need to base decisions on scientific data.
 - Mike Ripley removes his motion to write a support letter with the request for the State to provide additional information such as historical data.

Pointe Estates update from Klaas Oswald: Avery appealed to Divisional Court of Ontario, however, it was ruled that there was no grounds for an appeal. Wishart Law sent a Notice of Abandonment of both the appeal and judicial review. Pointe Louise Wetlands are now considered *Great Lakes Wetlands* which will get protection from the Provincial Policy Statement Under the Planning Act of Ontario.

Wishart Law request to BPAC: client/personal homeowner on the shore of Lake Superior had a significant diesel oil spill on the property. Insurance company had declined support for clean-up. Would like BPAC to write a letter of support for submittal to the insurance company.

Comments: words of caution concerning getting involved in the landowners legal requirements to clean-up the spill. The property owner is ultimately responsible for cleaning it up. General consensus is not to write a letter.

9. Public Comments

- No public comments

11. BPAC 2017 Executive Elections

Chair – Mike Ripley (U.S.)

1st Vice Chair – Ron Prickett (Canada)

2nd Vice Chair – Brian Wesolek (U.S.)

Past Chair – Paula Antunes (Canada – auto)