



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

March 12, 2016

RE: Written comments of Ohio EPA
Cleveland Harbor Dredge 2016, Public
Notice No. CLEVELAND – 16

U.S. Army Corps of Engineers – Buffalo District
1776 Niagra Street
Buffalo, NY 14207-3199
Attn: Mr. Eric Hanes

Dear Mr. Hannes,

Attached you will find the document dated March 1, 2016 from Kurt Princic, Ohio EPA to Ron Kozlowski, USACE – Buffalo District. Please accept this letter as part of the formal record for comments.

In addition to the March 1, 2016 letter Ohio EPA offers the following comment:

The proposed project involves an attempt to cap or remediate existing contamination in Lake Erie ("a contamination hot spot") by covering a portion of the hot spot with 180,000 cubic yards of material from the Cleveland Harbor. Recent data from both the Corps and Ohio EPA collected in 2014 and 2015 demonstrate that this hot spot is partially within CLA-1, but also extends beyond the parameters of CLA-1. Neither the original EIS from the Cleveland Dredging project (circa 1978) nor the EA/FONSI for open lake disposal of the Cleveland harbor sediment (December 2014) contemplated using the harbor sediment for capping contamination or for remediating contamination. As such, neither of these NEPA documents evaluated the environmental impact or effectiveness of using the Cleveland Harbor sediment in this way. In particular, because the project does not propose to remediate the entire hot spot, using the Cleveland Harbor sediment to cap only a portion of the hotspot has the potential of making future remediation efforts less effective or more costly. Additionally, because the effectiveness of the proposed remediation project has not been fully evaluated, the project has the potential of masking contamination without actually reducing exposure thereby hiding the harm from future generations. Furthermore, if the harbor sediment is allowed to commingle with the contaminated hotspot and then migrated to other portions of the lake, it could transport new contamination to otherwise clean portions of Lake Erie. Lastly, the proposed project has the potential of disturbing the contaminated hotspot during placement and thereby has the potential of causing greater resuspension and migration of the existing contamination. All of these potential environmental impacts and all other

Cleveland Harbor Dredging 2016

Mr. Eric Hanes

March 12, 2016

Page 2

potential environmental impacts from this new project should be evaluated under the NEPA process before this project could commence. Specifically, a Supplemental Environmental Impact Statement—or an EA and FONSI—should be completed before this project could commence.

Additionally, this project is presumably part of a larger project to remediate the entire contamination hotspot, which itself would be a major federal action. The proposed project is an improper segmentation of complete remediation. The complete remediation project would be a separate project from the dredging project or proposed open lake disposal project as the contamination extends beyond the CLA1 and capping the hot spot would require more than 180,000 cubic yards of material. Therefore, an Environmental Impact Statement should be completed that evaluates the environmental impacts of the entire remediation of the contamination hotspot.

Please feel free to contact me 330-963-1204 if you have any questions.

Sincerely,



Kurt M. Princic

District Chief

Ohio EPA Northeast District Office

KP/peb

Attachments

Ec: Rich Blasick, Environmental Manager, Ohio EPA, NEDO, DSW
Bill Fischbein, Attorney, Ohio EPA, Central Office, Legal
Joe Loucek, Environmental Specialist, Ohio EPA, NEDO, DSW
Tiffani Kavalec, Division Chief, Ohio EPA, Central Office, Legal



John R. Kasich, Governor
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March 1, 2016

RE: CLEVELAND HARBOR DREDGING 2016
PERMIT - INTERMEDIATE
CORRESPONDENCE
401 WETLANDS
CUYAHOGA
DSW401144574

Mr. Ronald Kozlowski, PMP, CGFM
Chief, Programs and Project Management
U.S. Army Corps of Engineers, Buffalo District
1776 Niagara Street
Buffalo, New York 14207-3199

CERTIFIED MAIL

Subject: Cuyahoga County / City of Cleveland
401 Certification Application Cleveland Harbor Dredging 2016
Ohio EPA ID No.154844

Dear Mr. Kozlowski:

We have conducted an initial review of the United States Army Corps of Engineers' (USACE) application for water quality certification (WQC) for the 2016 dredging of Cleveland Harbor. USACE has once again proposed disposal of the dredged material at open-water site CLA-1, approximately nine miles offshore of Cleveland. USACE's proposal also identified a contaminated hot spot in the vicinity of site CLA-1, a portion of which USACE has proposed to cap with the dredged material from Cleveland Harbor in order to bury toxic sediments and hopefully improve the benthic habitat in that area.

As with the two previous 401 water quality certifications submitted by USACE for maintenance dredging of Cleveland Harbor, USACE is proposing to open lake dispose 180,000 cubic yards of contaminated Harbor sediments into the open waters of Lake Erie based on its unilateral finding that such a proposal is the least costly, environmentally acceptable alternative, i.e. the federal standard.

On the basis of the available data and the applicable laws and regulations, Ohio EPA continues to have serious concerns and reservations about the water quality impacts of the USACE's proposal. These are the same concerns that led to past certifications by Ohio EPA requiring the USACE to place dredged material into confined disposal facilities and has also led to ongoing litigation between our respective organizations.

A summary of the main technical points of concern are listed below.

PCBs and Bioaccumulation

- All of the PCB data sets (including USACE 2012 and 2014, and Ohio EPA 2015) show that the Cleveland Harbor sediments have a higher PCB bioaccumulation potential than the Lake Erie background sediments. In general, the harbor sediments show up to 5 times as much PCB bioaccumulation potential as the background sediments.

- Two of the three data sets (USACE 2012 and Ohio EPA 2015) show that the Harbor sediments have a higher bioaccumulation potential than sediments at disposal site CLA-1. However, CLA-1 and CLA-14, the historic disposal sites, exceed Lake Erie background for PCB bioaccumulation.
- USACE has provided evaluations concluding that Harbor sediments do not exceed CLA-1 or background for PCB bioaccumulation. However, this was accomplished by including Tier 2 values, i.e. modelled estimates, into the Tier 3 data set. We do not agree that this approach is appropriate and do not believe it yields valid conclusions.

PAH Contamination, the Lake Erie "Hot Spot," and Proposed Beneficial Use of Dredged Material

- Both Ohio EPA and USACE have observed that there is a highly contaminated region of sediments in the vicinity of the historic disposal site CLA-1. Please see attachment. Ohio EPA has observed sediment PAH concentrations as high as 400 parts per million in this area. USACE concludes that at least some areas are highly toxic to benthic organisms, with predicted mortality as high as 100% for organisms exposed to some Lake sediments. USACE proposes to use the dredged harbor sediments to cap a portion of the contaminated zone; however, USACE can only cap the zone that lies within site CLA-1 at this time due to lack of NEPA and 404(b)(1) approval for sites outside of CLA-1. The most heavily impacted zone lies outside of CLA-1 and could not be capped at this time.
- These new data also help validate concerns that we have raised in the past. Ohio EPA has previously raised concerns to USACE regarding their inappropriate use of contaminated reference sites multiple times over the past 2 ½ years. The new USACE and Ohio EPA data confirm the significant PAH sediment contamination within the former disposal areas.
- Previously, USACE dismissed Ohio EPA's concerns on CLA-1 being a contaminated reference site. USACE has repeatedly stated, including in their February 5, 2014 letter to Chris Korleski, U.S. EPA Great Lakes National Program Office, that USACE's "assessment is that the open-lake reference areas selected for the Upper Cuyahoga River Channel dredged material evaluation are representative of Lake Erie background sediment contaminant levels present offshore of other harbors, and that the toxicity of sediments at these areas is insignificant." In contrast, this same letter from USACE also stated that CLA-1 was a "dredged material open-lake placement area which is estimated to be covered with at least one foot of sediment since it was last used over 45 years ago." A man-made disposal site is not and cannot be appropriate "background" reference by which to base the comparative analysis with harbor/river sediments. As stated previously CLA-4 represents the true background for Cleveland Harbor. When river sediments are compared to the CLA-4 reference site they fail for open lake disposal.
- Both USACE's and Ohio EPA's 2014 and 2015 sediment data have documented highly contaminated sediment in and beyond historic disposal site CLA-1. USACE has changed their position from stating that "there is no reason to believe that the bottom sediment at either open-lake area are unacceptably toxic in terms of their use as open-lake reference areas," to now, in the 2015 Sediment Evaluation, recommending CLA-1 be capped due to its sediment toxicity.

- Although Ohio EPA concurs that there is significant contamination within CLA-1, as well as further contamination beyond CLA-1 to the south and east, the remedial activities that may be needed have not been adequately evaluated. At a minimum, the nature and extent of sediment contamination in both areas first needs to be more accurately defined. Once the nature and extent of contamination has been determined, a thorough study should be completed to properly evaluate remedial alternatives in accordance with U.S. EPA guidance. Currently, the technical review provided by USACE is approximately one page, which is an insufficient analysis to support this remediation project.
- Further sampling is necessary to get a better handle on the true nature and extent of the contamination, since the sediment is clearly migrating from CLA-1. Based on the available data, we estimate that there are about two square miles of sediments with PAH levels in excess of 100 ppm, and a larger area with lower (but still elevated) PAH levels. Due to the elevated PAH levels recently documented, further sampling, including total petroleum hydrocarbons (TPH) analyses, should be conducted to more fully evaluate the contamination. Cleanup goals will also need to be developed specific to this project.

These concerns will clearly impact Ohio's ability to issue a 401 water quality certification application for the activity you have requested. We will, however, continue to review the application and consider public comments as part of our review.

If you have any immediate questions regarding this letter, please do not hesitate to contact me at (330) 963-1204.

Sincerely,



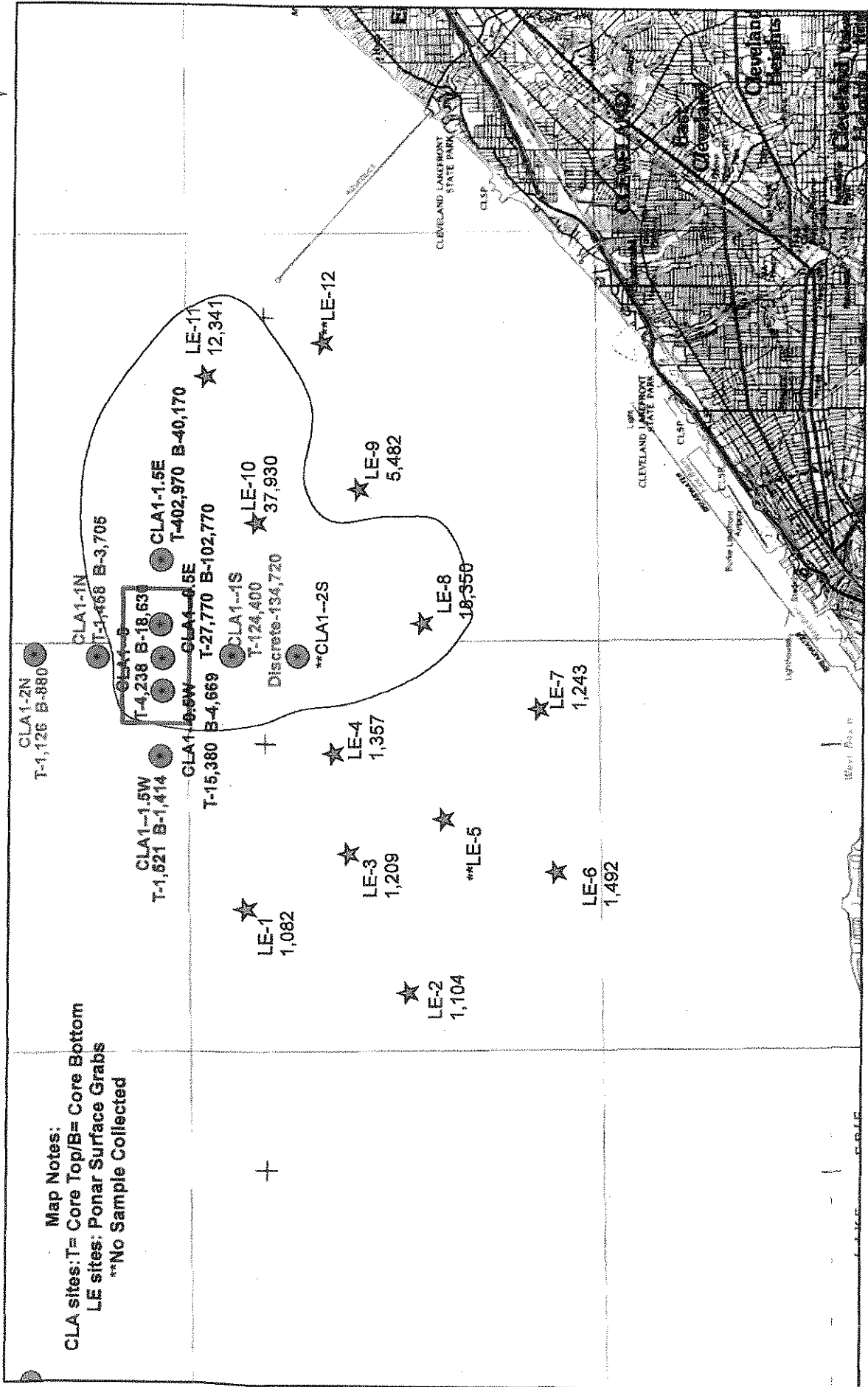
Kurt M. Princic
District Chief
Northeast District Office

KMP/ams

Attachments

ec: Rich Blasick, Environmental Manager, Ohio EPA, NEDO, DSW
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2015 Lake Erie Total PAH Concentrations ug/kg



Legend

Total PAHs represent the sum of the 16 priority pollutant PAHs.
 All non-detects were assigned a value one-half RL.

- ★ Ponar Grab Samples
- Multicore Samples
- CLA-1
- PAH AOC

