

Survey on Status of New York Area of Concern Remedial Action Plan Activities

AOC Management Meeting

September 19, 2013

**Area of Concern:** Buffalo River

**Date of Completed Stage 2 RAP Document and Addendums:** Stage 2 Addendum completed in December 2011

**Lead RAP Coordinator:** Jill Jedlicka, Buffalo Niagara Riverkeeper, (716) 852-7483 x21, jedlicka@bnriverkeeper.org; or, Katherine Winkler, Buffalo River Projects Manager, (716) 852-7483 x15, kwinkler@bnriverkeeper.org

- 1) List the current beneficial use impairments in your RAP and summarize the activities underway and planned to restore each beneficial use and make progress towards AOC delisting. (This is a big picture or 10,000 ft view of the major actions needed to delist the AOC) In addition please attach the short write ups of the priority projects we talked about having done by the April meeting.

Impaired BUIs	Activities underway or planned
1 – Restrictions on Fish and Wildlife Consumption	<ul style="list-style-type: none"><li>• Great Lakes Legacy Act Dredging to remediate contaminated sediment</li><li>• Refining delisting criteria language</li><li>• Development of Monitoring Protocol</li></ul>
2 – Tainting of Fish and Wildlife Flavor	<ul style="list-style-type: none"><li>• Great Lakes Legacy Act Dredging to remediate contaminated sediment</li><li>• NYSDEC's three-year phenol study of the Buffalo River AOC</li><li>• Refining delisting criteria language</li><li>• Development of Monitoring Protocol</li></ul>
3 – Degradation of Fish and Wildlife Populations	<ul style="list-style-type: none"><li>• Great Lakes Legacy Act Dredging to remediate contaminated sediment</li><li>• Refining delisting criteria language</li><li>• Development of Monitoring Protocol</li><li>• Secure sites, Design &amp; Implement projects from Buffalo River Habitat Restoration Action Plan</li></ul>
4 – Fish Tumors and Other Deformities	<ul style="list-style-type: none"><li>• Great Lakes Legacy Act Dredging to remediate contaminated sediment</li><li>• Post-Dredging Legacy Monitoring (2 and 5 year)</li></ul>

	<ul style="list-style-type: none"> <li>• Develop monitoring protocol to fill gaps in current monitoring plans</li> <li>• Refining delisting criteria language</li> </ul>
5 – Bird or Animal Deformities or Reproductive Problems	<ul style="list-style-type: none"> <li>• Great Lakes Legacy Act Dredging to remediate contaminated sediment</li> <li>• USGS Tree Swallow Study</li> <li>• Refining delisting criteria language</li> </ul>
6 – Degradation of Benthos	<ul style="list-style-type: none"> <li>• Great Lakes Legacy Act Dredging to remediate contaminated sediment</li> <li>• Post-Dredging Legacy Monitoring (2 and 5 year)</li> </ul>
7 – Restriction on Dredging	<ul style="list-style-type: none"> <li>• Great Lakes Legacy Act Dredging</li> <li>• Post-Dredging Legacy Monitoring (2 and 5 year)</li> </ul>
11 - Degradation of Aesthetics	<ul style="list-style-type: none"> <li>• Buffalo Sewer Authority Long-Term Control Plan implementation for CSO abatement and 400 acres green infrastructure solutions</li> <li>• City of Buffalo Green Code &amp; riverfront rezoning</li> </ul>
14 – Loss of Fish and Wildlife Habitat	<ul style="list-style-type: none"> <li>• Implementation of RiverBend Habitat Restoration Phase I and Phase II</li> <li>• 5 aquatic habitat restoration sites are included as part of the Great Lakes Legacy Act Project</li> <li>• Priority upland/riparian habitat restoration sites have been identified and are awaiting funding opportunities (Buffalo River Habitat Restoration Action Plan)</li> <li>• City of Buffalo Green Code &amp; riverfront rezoning</li> <li>• Buffalo Sewer Authority Long-Term Control Plan implementation for CSO abatement and 400 acres green infrastructure solutions</li> </ul>

2) Which BUIs will be proposed by your RAC and public noticed for re-designation to “not impaired” in 2013? In 2014? In 2015 and beyond

<b>FY Target</b>	<b>BENEFICIAL USE IMPAIRMENTS</b>	<b>Status (Actions Required)</b>
<b>2016-17</b>	Restrictions on fish and wildlife consumption	It is anticipated that this BUI could be proposed for re-designation as early as FY16-17 based on the implementation of the Great Lakes Legacy Act sediment remediation project and results from post-dredging (2yr and 5 yr) monitoring.
<b>2016</b>	Tainting of fish and wildlife flavor	It is anticipated that this BUI will be proposed for re-designation in FY15 based on the implementation of the Great Lakes Legacy act and results from NYSDEC’s phenol study in the AOC.

<b>2017-19</b>	Degradation of fish and wildlife populations	Depending on the start and duration of Legacy Act Dredging, and implementation of habitat restoration projects, it is anticipated that this BUI could be proposed for re-designation as early as 2017. Post dredging monitoring (2 yr and 5yr) will provide data and trends on this recovery.
<b>2016-17</b>	Fish tumors or other deformities	It is anticipated that this BUI could be proposed for re-designation as early as FY16-17 based on the implementation of the Great Lakes Legacy Act sediment remediation project and results from post-dredging (2yr and 5 yr) monitoring.
<b>2016-17</b>	Bird or animal deformities or reproduction problems	It is anticipated that this BUI could be proposed for re-designation as early as FY16-17 based on the implementation of the Great Lakes Legacy Act sediment remediation project and results from post-dredging (2yr and 5 yr) monitoring.
<b>2016-17</b>	Degradation of benthos	It is anticipated that this BUI could be proposed for re-designation as early as FY16-17 based on the implementation of the Great Lakes Legacy Act sediment remediation project and results from post-dredging (2yr and 5 yr) monitoring.
<b>2016</b>	Restriction on dredging activities	It is anticipated that this BUI could be proposed for re-designation as early as FY16 based on the implementation of the Great Lakes Legacy Act sediment remediation project and results from post-dredging (2yr and 5 yr) monitoring, or additional monitoring conducted by the Army Corps of Engineers.
<b>NA</b>	Eutrophication or undesirable algae	
<b>NA</b>	Restrictions on drinking water consumption, or taste and odor problems	
<b>NA</b>	Beach closings	
<b>2014</b>	Degradation of aesthetics	It is anticipated that this BUI could be proposed for re-designation as early as FY14 based on the results of the adoption of the City of Buffalo's Green Code, as well as the results of the Consent Order negotiation on the Buffalo Sewer Authority's Long Term Control Plan. The current draft calls for 400 acres of green infrastructure within the Buffalo River AOC, and over 15 years results in reduced bacterial loadings and minimizes CSO events.
<b>NA</b>	Added costs to agriculture or industry	
<b>NA</b>	Degradation of phytoplankton and zooplankton populations	
<b>2017-19</b>	Loss of fish and wildlife habitat	It is anticipated that this BUI could be proposed for re-designation in 2017-19 based on aquatic and upland habitat restoration proposed in the Great Lakes Legacy Act Project and the Buffalo River Habitat Restoration Action Plan.

- 3) Based on your current progress and planned activities, what is your best estimate of the year when your RAC would be ready to proceed with a final Stage 3 Area of Recovery designation or AOC delisting document?

Most of the Buffalo River BUIs are directly or indirectly linked to the Great Lakes Legacy Act sediment remediation effort. Our RAP cannot advance towards BUI redesignation or delisting without implementation of dredging. Current budget decisions are out of the control of the Local RAP Coordinator, but using the “best case scenario” approach (i.e.: Legacy dredging commences in Fall 2013), we believe that the Buffalo River RAC would be ready to proceed with an “Area in Recovery” designation by 2016. Once post dredging and post-habitat restoration monitoring is commenced, complete, and the data supported, barring any further funding delays, we believe that the Buffalo River RAC would be ready to proceed towards a final Stage 3 Delisting document in 2018-19.

- 4) When does your current RAP capacity grant funding run out? What will be your future RAP capacity needs by year with estimated dollar amount to accomplish BUI removal and AOC delisting targets described in questions 2 and 3 above?

Originally targeted to expire in 2012, we were able to extend and stretch our current RAP capacity grant to gain another fiscal year of personnel efforts through December 2013. Without future RAP capacity support, Riverkeeper would only be engaged in the RAP through its Project Management of the RiverBend Habitat Restoration Project (a key deliverable in the Buffalo River Habitat Action Plan).

The following table describes the anticipated dollar amounts and associated activities needed to move the Buffalo River into an Area of Recovery, and ultimately delist.

Year(s)	Anticipated Dollar Amount	Priority Actions
2014 – 2015	\$125,000 per year	Personnel needed for continued local support of the Great Lakes Legacy Act Project, regional planning efforts (i.e.: BSA long term control plan, green code), Buffalo River Habitat Restoration Projects, documenting and supporting BUI delisting, BUI removal/redesignation, citizen engagement and RAC facilitation
2016 – 2017	\$100,000 per year	Personnel needed to coordinate local post-dredging and habitat restoration activities, support monitoring and data collection, citizen engagement, RAC facilitation, and building long-term stewardship of project sites. Support designation of “Area in Recovery”.

2018-19	\$85,000 per year	Personnel needed to coordinate local post-dredging and habitat restoration activities, support monitoring and data collection, citizen engagement, RAC facilitation, and building long-term stewardship of project sites. Contract assistance for the development of Stage III report and associated activities supporting Delisting.
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5) What barriers (policy, funding, technical, other?) are RAP Coordinators encountering to tracking BUI activities and progress towards removal?

- Funding for Buffalo River RAP coordination expires on December 31, 2013. A new funding mechanism is needed to continue RAP coordination.
- Integrating RAP priorities with local and regional plans such as zoning code updates, land use planning, economic development, etc. to the extent practical, the Buffalo River RAP should be incorporated fully into the Brownfield Opportunity Area Planning, as well as the Local Waterfront Revitalization Planning (state plans), City-driven Green Code, and other quasi-agency planning such as Erie Canal Harbor Development Corporation.
- Establishing consensus-based goals and targets for delisting an urban river – not “restoration”, but “enhancement”, or restoring ecological integrity. There are no useful or established reference areas.
- Agency support for BUI monitoring and delisting.
- Identifying, monitoring and tracking the success of an urban river.
- Congressional decisions on funding for the Great Lakes Legacy Act and the GLRI.