

# New York State Department of Environmental Conservation

## Great Lakes Programs

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Joe Martens  
Commissioner

July 12, 2013

Mr. Chris Korleski, Director  
U.S. Environmental Protection Agency  
Great Lakes National Program Office  
77 W. Jackson Boulevard (G-17J)  
Chicago, IL 60604-3511

Dear Mr. Korleski:

Let me begin by expressing the New York State Department of Environmental Conservation's ("DEC") full commitment to the restoration of the Buffalo River and delisting of the Buffalo River Area of Concern (AOC), as well as acknowledging the outstanding efforts by the Buffalo-Niagara Riverkeeper in coordinating the Remedial Action Plan (RAP).

This letter is to advise you of the remaining management actions needed to satisfy delisting targets for removing the Beneficial Use Impairments (BUI), and full restoration of the Buffalo River AOC. DEC is defining "management actions" as key Great Lakes Restoration Initiative/Great Lakes Legacy Act commitments to a major project or strategic set of projects that are intended to achieve significant restoration of water quality and water dependent resources, consistent with the Great Lakes Water Quality Agreement. These management actions, identified by the Buffalo River Remedial Action Plan (RAP) Coordinator, are endorsed by the Buffalo River AOC's Remedial Advisory Committee, the DEC and I believe them to be generally supported by the local community.

The following list summarizes the management actions deemed necessary to satisfy the BUI restoration criteria/targets and ultimately delist the AOC;

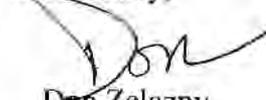
- Completion of the Phase II Great Lakes Legacy Act Sediment Remediation (this assumes Phase I Enhanced Navigational Dredging is completed satisfactorily),
- Restoration of five aquatic habitat restoration sites included as part of the Buffalo River Great Lakes Legacy Act Sediment Remediation project,
- Conduct Great Lakes Legacy Act Sediment Remediation project 2 and 5 year performance monitoring (includes residual monitoring of sediment quality and aquatic habitat restoration,
- Complete implementation of RiverBend Habitat Restoration Phase I and Phase II, and
- Design and implementation of a set of 13 priority aquatic/upland habitat connectivity projects identified in the Buffalo River Habitat Restoration Action Plan (see attached),

Based on the data and information currently available, the DEC believes that completion of these management actions, notwithstanding any unforeseen circumstances (i.e., the future development or refinement of project-specific designs and cost estimates, satisfactory completion of the Great Lakes Legacy Act's sediment remediation, and related monitoring/data assessments), will place the AOC on a trajectory for ecological recovery to sufficiently justify future delisting from New York's and the U.S. EPA's Water Quality Management Programs. As demonstrated by NY's leadership with the Oswego River AOC, the DEC intends to work with EPA, the RAP Coordinator and our local partners to initiate the formal delisting process once the targets of BUI removal are attained and AOC delisting goals are verified by monitoring data.

The Buffalo River "community," including a range of federal, state and local government agencies, business leaders and community action organizations, are working hard to help assure the ultimate restoration of the AOC's impairments is sustained through a series of ongoing or additional regulatory and related actions including (a) adopting into permit a Long Term Control Plan for reducing combined sewer overflows and promoting the benefits of green infrastructure, (b) implementing environmental remediation measures as warranted through DEC's State Superfund program to control pollution sources, (c) implementing a MS4 Plan within key portions of the watershed to control upstream contaminant sources, (d) revising the City of Buffalo's Local Waterfront Revitalization Plan to promote climate resilient shoreline development, (e) establishing a Buffalo River buffer zone to enhance aquatic and upland habitat connectivity and public access to the waterway, (f) integrating the Regional Economic Development & Community Sustainability Plans with Brownfield Opportunity Area and Environmental Justice programs, and (g) promoting a greater sense of river stewardship and appreciation through ongoing public education and river experiences spearheaded by the Buffalo-Niagara Riverkeeper.

We look forward to continuing our joint efforts to restore and delist New York's Areas of Concern. If you have any questions regarding this matter, feel free to contact me at (716) 851-7070 or email at [dezela@gw.dec.state.ny.us](mailto:dezela@gw.dec.state.ny.us); or contact Gerry Pratt, NYSDEC's Statewide AOC Coordinator with detailed questions/comments at 518-402-8246; email [ghpratt@gw.dec.state.ny.us](mailto:ghpratt@gw.dec.state.ny.us).

Sincerely,



Don Zelazny

Great Lakes Programs Coordinator

cc: Dave Cowgill, USEPA/GLNPO  
Richard Balla, USEPA Region 2, Chief Watershed Management Branch  
Jill Jedlicka, Buffalo-Niagara Riverkeeper, Buffalo River RAP Coordinator

Att: Buffalo River AOC Priority Habitat Restoration Action Plan projects

Sites included as part of the Great Lakes Legacy Act (SAV/EV)	Sites in the AOC which require funding for design and implementation	Sites in the AOC currently undergoing implementation (fully funded)
RiverBend	River Fest Park (SAV/EV)	RiverBend Phase I
Buffalo Color Peninsula	Dead Man's Creek	
Katherine Street Peninsula	City Ship Canal	
Ohio Street Shoreline	Toe of Katherine St Peninsula	
City Ship Canal	Blue Tower Turning Basin (SAV/EV)	
	North-Eastern Shoreline of Katherine St Peninsula	
	Smith Street Park	
	Concrete Central (North and East Shoreline, Eastern Upland)	
	Buffalo Color Peninsula	
	RiverBend Phase II	
	Old Bailey Woods - Western Parcel	
	Old Bailey Woods - Eastern Parcel	
	Bailey Avenue Peninsula	