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Ohio Environmental Council's Testimony on Proposed 401 Certification for a U.S. Army Corps of Engineers Dredging Project located in Toledo Harbor

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Thank you for this opportunity to testify today. My name is Kristy Meyer and I am the Director of Agricultural and Clean Water Programs at the Ohio Environmental Council (OEC). The OEC is a non-profit network of more than 100 local and state environmental-conservation organizations, and thousands of members throughout the state of Ohio. Our mission is to secure healthy air, land, and water for all who call Ohio home.

I would like to thank the Ohio Environmental Protection Agency (OEPA) for holding this public hearing today and allowing me the opportunity to provide comments on this proposed 401 certification. I would like to start off by saying that we are not opposed to dredging the Toledo federal navigation channel. We do, however, respectfully request that this 401 permit be denied on the grounds that it is counterproductive to our efforts to restore our Great Lake and, while it may be the least costly option for the U.S. Army Corps of Engineers (USACE), it is extremely costly to the health and economic viability of the western Lake Erie basin and its communities.

### **Importance of Lake Erie**

Lake Erie, Ohio's Great Lake, is a foundation of health, economic vitality, and recreation for millions of Ohioans. Lake Erie is unique among the Great Lakes—it is the shallowest, warmest, and most biologically productive. Lake Erie supports one of the largest freshwater commercial fisheries in the world and the largest sport fishery in the Great Lakes, producing more fish for human consumption than the other four Great Lakes combined.

The western Lake Erie basin is particularly vulnerable. It is the shallowest and most southerly location within the Great Lakes. It is, therefore, arguably the most biologically productive location within all the Great Lakes.

The western Lake Erie basin also supplies drinking water to hundreds of thousands of residents. Each year more than seven million people flock to Ohio's portion of the Lake Erie basin to reconnect with nature and families. As a result, a quarter of a million jobs are sustained. Tourism, wildlife watching, and sport fishing contribute \$10.75 billion a year in revenue to Ohio's economy. The islands within the western Lake Erie basin significantly contribute to the \$10.75 billion economic gain in the state of Ohio.

It is clear that Lake Erie and the western basin's natural wonders are essential to humans and wildlife alike; providing food, drinking water, recreation, and economic stability to millions of Ohioans.

### **Dredging of the Toledo Harbor and Water Quality of the Western Lake Erie Basin**

Within the Great Lakes navigation system, the waters of the Toledo Harbor on Lake Erie are the most heavily dredged. For nearly 20 years, the USACE has placed approximately two-thirds of the sediment dredged annually into the open waters of Lake Erie. The remaining one-third of the sediment, which is defined by the USACE as contaminated (sediment including heavy metals and other point source pollutants), are placed in nearby Confined Disposal Facilities (CDFs), which have been reserved for this purpose.

The least contaminated soils, approximately 600,000 cubic yards annually, are disposed in the open-lake three and a half miles northwest of the Toledo Harbor lighthouse. The contaminated sediment is disposed of at the Toledo Harbor Facility 3, Grassy Island (Island 18), and Toledo Harbor Facility 3 Extension.

For more than 20 years, the OEPA, through its 401 certification process, provided temporary approval of open-lake disposal with the requirement that alternatives be developed due to the environmental impacts. In 1987, the OEPA, with the support of the United States Environmental Protection Agency (USEPA), made the determination that open-lake disposal of sediment from the Toledo Harbor was an unacceptable practice.

The Buffalo District of the USACE made a federal standard determination that sediment dredged lake-ward from Lake Mile 5 were not contaminated, and therefore, suitable for open-water disposal. Within the USACE regulations, the federal standard is the least costly disposal alternative that is structurally sound and satisfies applicable environmental regulations. The OEPA does not concur with the USACE's determination that the sediment dredged lake-ward from Lake Mile 5 are clean and, thus, the USACE's determination is incorrect as open-lake disposal of the sediment would not satisfy applicable environmental regulations.

The USACE has developed a Great Lakes Testing Manual that is intended to determine whether sediment is clean based on the concentration of point source contaminants such as heavy metals. The OEPA does not concur as the agency recognizes that sediment itself, and associated phosphates and nutrients, are also contaminants and have major impacts on the Toledo Harbor. In the past, the amount of dredged sediment material that has been disposed into the open-lake consisted on average 600,000 cubic yards annually. The USACE is currently

seeking permission to dump twice to three times that amount – more than 1.2 million cubic yards annually - into the open-lake, resulting in an extremely significant pollutant loading to the western Lake Erie basin.

Sediment is a major water pollutant and is considered to be one of the top causes of water quality impairment. Suspended sediment reduces sunlight from penetrating the water column causing reduction in plankton and aquatic plant growth. High concentrations of suspended sediment can abrade, thus damaging fish gills and destroying the protective mucous covering the eyes and scales and increasing the risk of infection and disease. As sediment settles out of the water column, fish eggs, benthic organisms and high quality bottom substrate are covered creating major impacts to the ecosystem. The huge amount of sediment loading also increases the amounts of nutrients and phosphates that are deposited in the Toledo Harbor.

As Dr. Jeffrey Reutter, Director of Sea Grant, stated in a letter addressed to the Director of the Ohio Department of Natural Resources (ODNR) dated November 26, 2007, “the most important problem facing the Lake Erie ecosystem at present is Harmful Algae Blooms.” More recently, Dr. Tom Bridgeman, Professor at the University of Toledo, Lake Erie Center, found that sediment plumes are perfect incubators for *Microcystis*. *Microcystis* is a common species of cyanobacteria that can produce toxins harmful to animals and people. *Microcystis* blooms have shut down beaches, impacted recreational opportunities like sport fishing and boating, and have cost the state and local communities large sums of money from lost tourism and travel revenue in clean-up costs. In addition, the highly prolific algae problem within Lake Erie contributes to the creation of the central basin Dead Zone.

Let’s also not forget the amount of resources that are needed to clean the raw Lake Erie water before residents within the western Lake Erie basin can drink their tap water. Sediment and algae must be removed from the water before it can be consumed. In recent years, the Toledo Water Treatment Plant has seen an increase in the number of times that the raw Lake Erie water that is drawn in for treatment contains large amounts of very fine particles of sediment. The elimination process of this sediment is costly and increases communities’ treatment costs to meet the USEPA requirements. No other Great Lake states allow open-lake disposal unless it is clean sand. The dredge material from the Toledo Harbor is not sand – it is clay slit.

The OEPA maintains that the sheer volume of sediment placed into open-waters impacts lake ecology by reducing water clarity for an extended time and redistributing pollutants. Former Governor Bob Taft stated in a February 2004 letter to Michigan Governor Jennifer Granholm that placing dredged material in

such a shallow part of Lake Erie “where it can spread by wind and current action is counterproductive to our efforts to restore this Great Lake.”

In the Lake Erie Protection and Restoration Plan of 2008, Priority Nonpoint Source Pollution, the Ohio Lake Erie Commission states that critical actions for the years 2009-2011 should be to develop water quality criteria for the western Lake Erie basin that would result in a prohibition of open-lake disposal in excess of 50,000 cubic yards by 2011. The Great Lakes Regional Collaboration states that “nearshore waters of the Great Lakes should pose a *minimum* risk to human health through contact.” It goes on to state, “The need to close beaches, issue boil water notices, publish fish consumption advisories, and mechanically remove stranded algae should be minimized.” It also recommends that \$20 million additional dollars be allocated for efforts to promote the restoration and protection of native fish communities in the near shore and open-lake waters. The recently released USEPA Great Lakes Restoration Initiative Interagency Funding Guide allocates funding to improve near-shore, native fish habitat, and drinking waters.

So, I ask, how does open-lake disposal further the local communities’, states’, regional, and federal efforts to restore our Great Lake? Simply put, it doesn’t.

## **Conclusion**

Granting the USACE’s permit for the disposal of more than 1.2 million cubic yards into the open-lake could not be more counterproductive to our efforts to restore our Great Lake. Instead, the “clean” dredged material should be used to restore our Great Lake. How on one hand can we explain to Ohio taxpayers that we are going to use their money to restore the Great Lakes, but then allow for the degradation of the very resource we are working so hard to restore? As well as explain to them that they will continue to pay higher costs to clean-up their drinking water, be able to eat the fish, and enjoy their beaches.

Lake Erie is vitally important to Ohio. Lake Erie does so much for us. It is a place to reconnect with family and friends, interact with wildlife, and fish and hunt. Lake Erie also is an economic driver for the state of Ohio, generating \$10.75 billion dollars in revenue and more than a quarter of a million jobs in tourism alone. The western Lake Erie basin is a major contributor to the uniqueness of our Great Lake.

It is time that we as a state end this irresponsible practice. Therefore, the Ohio Environmental Council urges the OEPA to deny the USACE a permit to dump massive amount of sediment into the open-lake.