

DER-18-Mile-Creek

New York State Department of Environmental Conservation

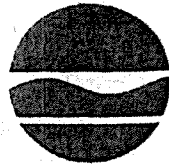
Division of Environmental Remediation

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Joe Martens
Commissioner

APR 19 2011

Mr. David C. Wilson
Chairman, Board of Directors
Niagara County Soil and Water Conservation District
4487 Lake Avenue
Lockport, NY 14095

Mary Jo Tamburlin
Clerk, Niagara County Legislature
Niagara County Courthouse
175 Hawley Street
Lockport, NY 14094

Dear Mr. Wilson and Ms. Tamburlin:

We have received your letters and resolutions requesting that New York State designate the Eighteenmile Creek Corridor Site as a top priority for the New York State Superfund program and not refer this project to the United States Environmental Protection Agency (USEPA) for inclusion on the National Priorities List (NPL). We appreciate your concern regarding the effect this designation may have on the pace of remedial activities due to the nationwide competition for NPL money and the potential that funding for the Eighteenmile Creek Area of Concern (AOC) restoration under the Great Lakes Legacy Act (Legacy Act) could be in jeopardy due to the loss of non-federal matching funds (i.e., State Superfund expenditures).

Let me assure you that the New York State Department of Environmental Conservation (Department) shares your concern relative to the timely investigation, cleanup and delisting of this AOC. The Department's consideration of an NPL listing does not imply otherwise. Rather, the Department's review seeks to leverage public and private resources to ensure that this opportunity to address the Eighteenmile Creek AOC is maximized. While this alternative approach does not capitalize on the Legacy Act funding, it would provide federal funding from the federal Superfund Program to the extent that private parties do not agree to implement the necessary remediation. It is recognized that both the federal Superfund Program and the Legacy Act approaches minimize state dollars to achieve our shared goal.

At this time, the Department has not submitted a request to nominate this site to the NPL. The Department is currently working with the USEPA to assess the eligibility of the site for the Federal Superfund program. A decision has not been made on whether to formally request inclusion of the site on the NPL.

You should also be aware that the entire AOC may be nominated for the NPL, which would include the Corridor Site and Creek Sediment Study portion. As noted above, designating the entire AOC would obviate the need for a Legacy Act grant and matching funds, thus freeing up these grant funds for other important projects in the Great Lakes Basin. While it is true that

