

Ohio EPA Responsiveness Summary

Middle Bass Island Marina Project Ohio EPA ID#: 052324

On October 11, 2005 Ohio EPA held a public information session and public hearing on the proposed Ohio Department of Natural Resources Middle Bass Island Marina project. This document is Ohio EPA's response to all concerns, questions, and comments raised in testimony given at the public hearing, and in letters received at Ohio EPA during the public comment period, regarding water quality issues relevant to the review of the Section 401 application.

In an effort to help you review this document, Ohio EPA has organized the information in a consistent format and used different fonts to distinguish among comments and responses. The document is organized as follows:

- **Comment #:** This section provides a summary of interested party questions. When appropriate, these are direct quotes from interested party testimony or submitted comments. Similar comments are combined, when appropriate.
 - **Response #:** *This section has language in italics and summarizes Ohio EPA's response to the corresponding question/comment.*
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Comment #1: Development of a expanded marina is not consistent with the Governor's statement made about why the parcels were purchased.

Response #1: *According to ODNR, Middle Bass Island State Park (MBISP) was purchased with moderate development in mind. In fact, some of the funding for the purchase came from the Waterway Safety Fund. This purchase was always meant to be a State Park, not a State Nature Preserve. As a State Park, some development was always intended.*

Comment #2: There is not a demonstrated need to increase the size of the marina from approximately 50 boat slips to more than 300 boat slips. The existing marina is rarely filled to capacity.

Response #2: *Ohio EPA has heard many conflicting statements regarding the degree of current use of the existing marina. On one hand, ODNR and several commenters stated that on certain weekends during peak season, demand is far greater than the current number of*

boat slips. Other commenters state that the existing marina is not full the majority of the time during weekdays, regardless of the season. Also, Ohio EPA is not convinced that a survey of boaters, as was done by ODNR, is the best method to determine boater needs, feeling instead that this results in a wish list of boaters, not a demonstrated need. However, Ohio EPA does feel that some renovation of the existing marina is warranted, including a redesign of the harbor entrance and the removal of the center peninsula. These activities are necessary for reasons of boater safety and improvement of water circulation. The majority of the marina expansion is in the removal of the peninsula wetland. Once those impacts have been authorized and the area is opened up, it is the discretion of ODNR as to how few or how many boat slips they choose to design in that space.

Comment #3: Expansion of the marina will attract additional development and land use changes which cannot be easily projected or controlled. A related issue of concern will be the increased need/demand on existing infrastructure services, such as trash removal, sewage treatment, and law enforcement.

Response #3: *Ohio EPA is very concerned about the indirect impacts of increased human use of the marina area and, ultimately, Middle Bass Island. Increased development is a real, though not certain, possibility. With that would come, as noted in the comments, possible land use changes and the need for additional infrastructure services. This may ultimately result in a change in character of the island. However, the review of an application for a Section 401 Water Quality Certification is limited to considering water quality impacts.*

Comment #4: The expanded marina will have a beneficial economic impact and bring in employment opportunities for island residents. What effect will such a large marina have on a small community like Middle Bass? Why not try to accommodate ecotourism instead with a smaller marina and more screening for more natural activities?

Response #4: *Please see Response #3 above. These issues do not pertain to water quality. Ohio EPA's review authority pertains only to water quality issues.*

Comment #5: Many commenters noted that the area has been designated by Audubon Ohio as a Lake Erie Western Basin Important Bird Area. The area is also used by many migratory bird species. Other commenters were concerned with the impacts to wetlands and other wildlife habitat, particularly the Lake Erie Watersnake (LEWS).

Response #5: *Given that the project is largely within the footprint of the existing*

marina, and on closely associated areas where the land had previously been intensively managed for grapes, the Middle Bass Island marina site is hardly a unique natural area. There will be impacts to the LEWS, which are being addressed through a formal consultation process between the U.S. Fish and Wildlife Service and ODNR (see response to Comment #6 below). There will also be impacts to various other wildlife, including migratory birds. However, Ohio EPA does feel that these impacts will be mitigated for by the current mitigation proposal which includes the on-site restoration of 0.30 acres of Category 3 coastal wetlands, the on-site enhancement and preservation of a 7.73 acre Category 3 wetland, the protection of all the avoided wetlands on-site, the on-site creation of 1.75 acres of a forested vernal pool complex, the enhancement of over 30 acres of marsh on North Bass Island, and the off-site restoration of wetland in Middle Harbor, Catawba Island. The restored wetland island in Middle Harbor will also provide important habitat for migrating and nesting birds and other wildlife and is still within the Lake Erie Western Basin Important Bird Area.

Comment #6: Ohio EPA received many comments concerning the affects of this project on the LEWS, a federal threatened and state endangered species. Other respondents pointed out that the LEWS is currently meeting the U.S. Fish and Wildlife Service's recovery plan goals for Middle Bass Island.

Response #6: *ODNR has been involved in an extensive formal consultation process with U.S. Fish and Wildlife Service relative to all types of impacts to the LEWS. ODNR has agreed to abide by the mitigative measures developed during this process. The Section 401 Water Quality Certification has addressed this issue by inserting a condition that states "All measures identified and agreed upon by the applicant and the U.S. Fish and Wildlife Service (USFWS) to protect the Lake Erie Watersnake, a federally threatened and state endangered species, shall be adhered to. These measures shall be found in the forthcoming biological opinion, expected to be issued by the U.S. Fish and Wildlife Service in September 2006."*

Discussion with USFWS regarding whether or not the LEWS are meeting the recovery plan goals indicate that the population goal is being met for 2004, the most current year for which population figures have been analyzed. However, besides the population per island goal, there are other goals that LEWS need to meet before they are officially "recovered" and can be removed from the list. Not all of these other goals have yet been met.

Comment #7: Most of the wetland mitigation is being proposed off the islands. All mitigation should be on the islands because of its unique habitat.

Response #7: *To address the lack of on-site or nearby island wetland mitigation, ODNR has added the following two projects: 1) Enhancement of 30.7 acres of wetlands at Fox's Marsh Wildlife Area, North Bass Island, and 2) Creation of a 1.75 acre forested, vernal pool wetland complex on Parcel B at MBISP.*

ODNR proposes to enhance approximately 30.7 acres of wetland habitat at Fox's Marsh Wildlife by attempting to control non-native invasive plants. The marsh is located in the southwest corner of North Bass Island east of Manila Bay. With lower lake levels, extensive stands of invasive plants such as Phragmites and reed canary grass have invaded the marsh area during the last 8 years. ODNR estimates that the 30+ acre wetland contains at least 15 acres of Phragmites and reed canary grass. ODNR plans to aerial spray annually for two years followed by on-the-ground monitoring. The herbicide Habitat or AquaNeat will be used and some follow-up spraying may be needed.

ODNR has also recently added the creation of 1.75 acres of forested vernal pool wetland habitat to the southeast corner of Parcel B. ODNR will construct the wetland after fill has been placed on the parcel. The wetland will be built in a way that tries to address concerns raised by the USFWS, yet minimizes the bird use concern raised by the Federal Aviation Administration (FAA). Therefore, the wetland is designed so that it will not provide permanent aquatic habitat that would attract bird species that are of concern by the FAA. The estimated depth of fill to be placed on Parcel B has an average depth of five feet. The fill material will be chosen from the excavated hydric soils (assumed) and shaped on the site with bulldozers and compacted using a sheepsfoot roller to ensure that the pool will intermittently hold water. This basin will have predominantly gradual slopes (> 15:1) to a maximum depth of two feet. After shaping and compaction, loose soil will be placed randomly in the basin to provide varying depths (i.e. hummock) and a diverse array of habitat that should support a diversity of native flora and fauna. Additionally, dead plant material (woody debris from trees and brush) will be placed in the wetland to further enhance habitat diversity. It is expected that the seed bank inoculum from the extant natural soils from the marina basin will not require soil amendments or seed enrichments. Some plantings of woody species may be needed. ODNR plans to use surface runoff as the predominant source of hydrology for the wetland. Amphibian

surveys will be conducted post-construction.

With these two projects, ODNR has committed to conduct a significant portion of the mitigation on the Lake Erie islands. However, ODNR still proposes to get 2.2 acres of wetland restoration credit for mitigation at the Middle Harbor Wetland Restoration Unit. Note that this location meets Ohio EPA's mitigation rules as it is within the same watershed as Middle Bass Island.

Comment #8: A couple of comments were received that opposed removal of the center wetland peninsula coupled with the proposed mitigation off-island. They suggested that ODNR should focus of reinforcing the existing marina without the further loss of wetland habitat and the need to mitigate off-island.

Response #8: *Given the deteriorated condition of the existing marina and harbor entrance some upgrade to the marina was necessary. ODNR believes that it is better to propose a design that not only improves boater safety but also water quality. Ohio EPA agrees with this concept. The center peninsula is, basically, a spoil pile derived from the dredging of a wetland many years ago to create the existing marina. Ohio EPA wetland ecologists determined this wetland to be a low quality wetland. ODNR's original mitigation proposal did send much of the mitigation off of the islands. However, revised mitigation plans include more on-islands mitigation and less off-island mitigation. The off-island mitigation is still within the watershed and meets all other Ohio EPA's mitigation rules. Therefore, Ohio EPA feels the current mitigation plan is acceptable.*

Comment #9: FAA expressed concern with the wetland creation on parcel B and compliance with FAA guidelines.

Response #9: *As noted above in the Response #7, ODNR has committed to more on-island mitigation through the creation of a 1.75 forested vernal pool wetland complex on Parcel B. This mitigation is viewed as a possible wildlife attractant by the FAA. For airports serving piston-powered aircraft, the FAA siting criteria recommends a minimum distance of 5,000 feet between aircraft movement areas, loading ramps, or aircraft parking areas and the wildlife attractant. ODNR has designed the mitigation wetland as a forested vernal pool wetland complex to reduce the attractiveness of the mitigation area to species of concern to the FAA, such as geese, gulls, etc.*

Comment #10: We need less marina, but more shoreline fishing access. Maybe a fishing pier.

Response #10: *This question should be directed to ODNR as this issue does not pertain to water quality. Ohio EPA's review authority pertains only to water quality issues.*

Comment #11: Why would the entrance be moved north of the current position?

Response #11: *Reasons for moving the entrance channel to the north include increased boater safety and improved water circulation/quality. The existing harbor entrance does not meet the safety needs required for today's larger boats and the existing design of the marina allowed for minimal water circulation. Keeping the harbor entrance in the same location limited the improvements that could be realized in these two areas.*

Comment #12: What would happen to the material dredged to make that new entrance? Will it be used to close the current entrance?

Response #12: *The material dredged for the new entrance channel will be used for beach nourishment if it is sand and/or gravel; or it will be used as fill for the restoration in the old channel if it is hydric soil.*

Comment #13: Is there consideration of adding metal pilings and rip-rap lakeward along the Marina and current entrance and using the dredged material to remediate wetland area as a buffer between the Marina and the Lake?

Response #13: *ODNR is not proposing or considering adding metal piling and riprap east of the existing breakwalls to create wetlands as a buffer in order to avoid and minimize impacts to Lake Erie.*

Comment #14: Wouldn't it be better to remediate wetlands on Middle Bass with the dredged materials as the Marina is redesigned and deepened? It would greatly reduce the distance and expense of transport to East Harbor State Park for use as merely fill. That dredged material is quite likely to contain viable seed (propagules) which if used to remediate wetland would be far superior ecologically.

Response #14: *ODNR is not proposing to transport any fill material from MBISP to East Harbor State Park. Additionally, ODNR's Division of Wildlife does not want any fill placed in the wetland area of the Kuehnle Wildlife Area on Middle Bass Island. All of the dredged material will remain and be distributed on parcels on MBISP. A portion of the material will be beneficially used to create 1.75 acres of forested*

vernal pool wetland habitat in the southeast corner of Parcel B. The wetland will be designed and used to capture surface runoff for hydrology and to help with adjacent landowner concerns. ODNR is hopeful that the dredged material contains viable native wetland plant propagules to be used in the 1.75 acre wetland creation.

The dredged material to create the wetland island in Middle Harbor will come from the dredging of navigation channels in East Harbor.

Comment #15: Will redevelopment remove the small wetland parcels at the innermost area adjacent to the Marina?

Response #15: *It is unclear to Ohio EPA which small wetland parcels are being referenced in this question. There are two small wetlands, wetlands 11 and 12, which are located southwest of the existing marina. These two wetlands are proposed to be entirely filled. There are several small coastal wetlands along the east side of the project area, wetlands 1b, 1c, 1d, 1e, and 1f. Wetlands 1b and 1f will be avoided. Wetlands 1c, 1d, and 1e will be partially filled. These impacts are due to the new marina entrance. Total fill in these wetlands is 0.15 acres and will be mitigated for by restoring 0.30 acres of wetlands in the old channel entrance.*

Comment #16: Concern was raised about boating safety. St. Hazards, directly to the north of the ODNR marina, plans to have a commercial ferry dock at the end of their breakwall. They are also concerned with boat wake since the redesign of the harbor entrance for the ODNR project will move the entrance closer to them.

Response #16: *ODNR feels that the current design of the new harbor entrance will not result in any safety issues, including boat wake, for the marina at St. Hazards. Additionally, this is not a water quality issue that can be reviewed by Ohio EPA. Question regarding this should be directed to the ODNR Office of Coastal Zone Management. They have coastal engineers that look at these issues.*

Comment #17: The State of Ohio should not use tax revenue to unfairly compete for boat slip rental business.

Response #17: *This question should be directed to ODNR as this issue does not pertain to water quality. Ohio EPA's review authority pertains only to water quality issues. However, ODNR has indicated to Ohio EPA that slip rental rates will be based on fair market rate.*

Comment #18: Sewage treatment discussion in the application is unclear and

incomplete.

Response #18: *ODNR has indicated to Ohio EPA that the current plan for the marina is to hook into the sewage treatment plant operated by Lake Erie Utilities. This plant also services the Burgundy Bay subdivision.*

Comment #19: The description of the placement of the fill material obtained from excavation of the marina is unclear and does not include consideration of all potentially detrimental impacts.

Response #19: *All of the dredged material will remain and be distributed on parcels on MBISP. Fill within the marina basin will be limited to the corners and edges where needed to improve the basin shape for flushing. Fill in upland areas will be limited to existing grass areas or disturbed areas which were originally planted as vineyards. The vineyards are now 20 year old field successional shrub growth dominated by silky dogwood and sumac, with some ash, mostly under 15 to 20 feet high. Most of these areas still have the metal posts and wire which is very unnatural and a safety issue. Any areas of mature trees will not be used for fill.*

An ample buffer of about 75 feet along all property lines and the shoreline is proposed around fill areas. Best Management Practices dictate that all runoff must be pretreated for water quality and managed so that there is no change in off-site flow from the predevelopment condition. The 1.75 acre mitigation wetland to be created on Parcel B will also help retain water on this site.

Since flood plain designations in the areas proposed as fill areas are driven by lake level fluctuations any fill placed there should not have a measurable impact.

Fill derived from the dredging of the peninsula and the upland area immediately south of the existing marina was all material in place before the original marina was put in use. It is therefore unlikely that it is contaminated. Some testing of the fill for possible contamination is being required for the Environmental Assessment. Should any contamination above health limits be found during this testing, that dredged material will be properly disposed of by approved methods.

Comment #20: The risk of ash borer from increased importing of firewood to the new campground areas is not addressed in the environmental impacts cited in the

application.

Response #20: *This question should be directed to ODNR as this issue does not pertain to water quality. Ohio EPA's review authority pertains only to water quality issues. However, ODNR has indicated to Ohio EPA that they believe there are adequate quarantine restrictions already in place by the U.S. Department of Agriculture.*

Comment #21: What are the Middle Bass Island Yacht Club and regular island residents supposed to do with their boats during the two year construction period when the existing marina is to be dewatered? What is to happen to the dock spaces currently used by the Middle Bass Island Yacht Club and regular island residents? Does the state plan to remove their docks and turn over all new dockage to the public?

Response #21: *Ohio EPA reviews applications for Section 401 Water Quality Certifications relative to water quality impacts. Since these are not water quality issues Ohio EPA suggests that these questions should more properly be directed to ODNR. Ohio EPA is aware that the current construction plan is to have the existing marina dewatered only one year, not two. Ohio EPA was also informed by ODNR that ODNR continues to work with island residents and members of the Middle Bass Island Yacht Club to address these issues and to accommodate this set of boaters.*

Comment #22: How can the state justify spending millions of dollars for a marina and campground that will only attract a small number of people during a few months each year? How can this project be justified when a 300 boat marina is already in the works adjacent to this project? Why does ODNR want to add another park to its financially strapped system?

Response #22: *Ohio EPA reviews applications for Section 401 Water Quality Certifications relative to water quality impacts. Since these are not water quality issues Ohio EPA suggests that these questions should more properly be directed to ODNR .*

Comment #23: One commenter was concerned that he can barely afford any of the state-owned docks at their current rates and was concerned over what docking fees may increase to if this plan is approved. He stated that most serious boaters own self-contained boats and have little need for many of the amenities that will be offered at this proposed dock.

Response #23: *ODNR has indicated to Ohio EPA that slip rental rates will be based on fair market rate.*

Comment #24: What is the status of the mitigation projects for the Middle Bass Airport project and the St. Hazard's Marina project?

Response #24: *A mitigation compliance inspection was conducted in May, 2006 for both of these projects. Some deficiencies were noted on both projects and follow up is on-going.*