



Indiana Department of Environmental Management

*Protecting Hoosiers and Our Environment Since 1986*



# Grand Calumet River Area of Concern State SEP Opportunity

Michael Spinar, Indiana Department of Environmental Management

CARE Workgroup Meeting

June 22, 2021



# What is an SEP?

- IDEM's goal is for all regulated entities to be in full compliance with federal and state environmental regulations.
- However, regulated entities occasionally find themselves the subject of an enforcement action for a violation of these regulations.
- Typically, IDEM and the respondent negotiate an Agreed Order (AO) to resolve the violations. As part of the negotiation of the AO, the respondent may elect to conduct a Supplemental Environmental Project (SEP).
- SEPs are projects that are voluntarily undertaken by a respondent in enforcement to actively improve, protect, or reduce risks to public health or the environment.
- Respondents conducting an IDEM-approved SEP may offset some portion (typically up to 80%) of the gravity-based civil penalty assessed for the violation.



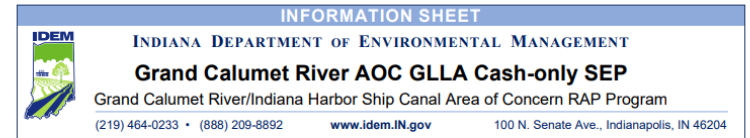
# GLLA SEP Opportunity in a Nutshell

- Respondents undergoing enforcement may offset up to 80% of the gravity-based civil penalty by contributing a cash match to a Great Lakes Legacy Act (GLLA) sediment remediation project within the Grand Calumet River Area of Concern (AOC).
- SEP has been pre-approved by IDEM, with AO templates and an Information Sheet available for interested respondents.
- Should a respondent elect to participate in the SEP, IDEM will work with GLNPO to conduct invoicing.



# GLLA SEP – Information Sheet

- Standard IDEM Information Sheet template – approximately 2 pages in length.
- Provides respondents information on:
  - Background on SEPs, Great Lakes AOC, Grand Calumet River AOC, AOC Remedial Action Plan (RAP), and the GLLA.
  - Roles previous regulatory settlements have played in supporting RAP goals.
  - AOC restoration accomplishments.
  - How contributing to Grand Calumet River GLLA projects as a SEP benefits the community.
  - Resources for additional information.



#### What is a Supplemental Environmental Project (SEP)?

A Supplemental Environmental Project (SEP) is an environmentally beneficial project that improves, protects, or reduces risks to public health or the environment, which a regulated entity agrees to undertake in further settlement of an enforcement action, but which the regulated entity is not otherwise legally required to perform. A SEP is an optional addition to an Agreed Order and may offset up to 80 percent of the gravity-based civil penalty in the Agreed Order.

One option potentially available to respondents in Northwest Indiana is the provision of a cash match to support a Great Lakes Legacy Act (GLLA) contaminated sediment remediation project within the Grand Calumet River / Indiana Harbor Ship Canal Area of Concern (AOC).

#### How does a SEP support IDEM's Mission?

The Indiana Department of Environmental Management's (IDEM) mission is to implement federal and state regulations to protect human health and the environment while allowing the environmentally sound operations of industrial, agricultural, commercial, and governmental activities vital to a prosperous economy. The goal of the agency is for all regulated entities to be in full compliance with these regulations. However, regulated entities occasionally find themselves the subject of an enforcement action for a violation of these regulations. When that occurs, a SEP can offer a means for the respondent to actively improve, protect, or reduce risks to public health or the environment rather than simply paying a penalty.

#### What are Great Lakes Areas of Concern (AOCs)?

Prior to the implementation of strict modern environmental regulations, many industries and municipal sanitary districts regularly discharged pollutants directly into lakes and waterways connected to the Great Lakes. Much of this pollution would adhere, or seep in between, the grains of clay, sand, or silt at the bottom of these waterbodies. The buildup of such legacy pollution in sediments, combined with physical alternation of area waterbodies and the unintended impacts of urbanization and invasive species, caused drastic harm to the ecosystem, leaving many such areas highly impaired for human and wildlife use. These severely degraded areas, of which 43 were identified by the United States and Canada, are known as Great Lakes Areas of Concern (AOCs).

The AOC designation is not regulatory in nature; instead, it serves as a means of identifying and holistically addressing legacy environmental concerns within the Great Lakes and their connecting waterways. The power of the Great Lakes AOC program comes from its ability to leverage non-regulatory mechanisms to supplement traditional compliance and enforcement processes.

#### Why is the Grand Calumet River considered an AOC?

The Grand Calumet River, Indiana Harbor Ship Canal, and Nearshore Lake Michigan Area of Concern, Indiana's only AOC, is located in northern Lake County, Indiana. It includes waterways found in four communities with some of the densest concentrations of heavy industry in the world – Hammond, Whiting, East Chicago, and Gary. Between approximately 1870 and 1972, pollutants such as polychlorinated biphenyls (PCBs), polycyclic aromatic hydrocarbons (PAHs), heavy metals, and oil and grease were discharged to the air, land, and water within the AOC. This was accompanied by urbanization, filling and channeling of the waterways, sand mining, and other physical disturbances to the area. The region has also been impacted by invasive species such as phragmites, Japanese knotweed, and purple loosestrife. As a result, the AOC was listed as impaired for all 14 possible beneficial uses of the waterway – the most of any Great Lakes AOC.

#### What is being done to address impairments within the Grand Calumet River Area of Concern?

In 1991, IDEM developed a Remedial Action Plan (RAP) for the Grand Calumet River AOC with the aid of the Citizens Advisory for the Remediation of the Environment (CARE) Committee, a group of IDEM-designated individuals who provide input into the RAP planning process. The RAP thoroughly documents the ecological problems leading to Beneficial Use Impairments (BUIs) in the AOC. It also identifies the key restoration work, such as sediment remediation and habitat restoration, needed to address these problems. At its core, the RAP process, while nonregulatory in nature, is tasked with collaboratively developing and communicating a pathway to restore the AOC.

Over the past 30 years, the United States Environmental Protection Agency (U.S. EPA), U.S. Army Corps of Engineers, IDEM, and members of the CARE Committee have been planning for and implementing ecosystem projects to implement the RAP, remove the 14 BUIs, and delist the Grand Calumet River AOC from the list of Great