



Comments on the Canada-US Great Lakes Water Quality Agreement Submitted by the Great Lakes and St. Lawrence Cities Initiative

Note: The following comments were submitted to the binational.net website on July 9, 2010

1. NUTRIENTS

Nothing will speak more loudly about the commitment of the Parties to the water quality of the Great Lakes than new targets on nutrients. Failure to set targets would send a negative signal to the Great Lakes community that nutrients are not as serious as the acute algal problems experienced on Lake Erie and Ontario would suggest.

It is vitally important to set new lake-wide targets for nutrients within the text of the Great Lakes Water Quality Agreement (WQA). To ensure direct accountability to the Parties, these targets should be set jointly by Environment Canada and USEPA, and should not be delegated to other bodies such as Lake-wide Area Management Plans (LAMPs).

Lack of scientific certainty on the causes of the algal growth should not be used as an excuse for delay in setting targets. As some may recall, there was lack of scientific certainty when the original nutrient targets were first set in the WQA. This did not stop the negotiators at that time from establishing visionary targets, which led to dramatically reduced nutrient levels in the lakes. It is this type of bold vision that is needed once again.

While the Great Lakes and St. Lawrence Cities Initiative (GLSLCI) does not have enough information at its disposal to determine the appropriate targets that should be set, it is clear that the existing targets are not sufficient to deal with the problems being experienced in the lakes. For instance, nutrient lake-wide targets for Lake Erie and Lake Ontario could be half the current targets.

In addition to firm targets within the WQA, clear timelines within which to achieve these targets are needed in the WQA.

2. TOXICS

Due to the long residence and bioaccumulation of toxics in the lakes, as well as the accumulation of toxics as waters pass through the lakes into the St. Lawrence, the only responsible management approach to toxics in the Great Lakes is prevention. The WQA was a groundbreaking agreement with respect to toxics and the preventative approach, committing the Parties to zero discharge and virtual elimination.



These principles hold true as much today as they did a generation ago. Talk of risk management of toxics has mayors and many other Great Lakes citizens concerned that the Parties are now backing away from these principles. Through the renegotiation of the WQA, the Parties must reaffirm their commitment to zero discharge and virtual elimination. Furthermore, the GLSLCI supports the NGO coalition recommendation to apply the principles of virtual elimination and zero discharge to radionuclides that are persistent and bioaccumulative.

While the principles remain the same, much has changed over the last 20-25 years with regard to *pathways* of toxics entering the Lakes. Many point sources have been successfully regulated. It is now the non-point and product based sources that require our full attention. This significant shift in the pathways needs to be explicitly acknowledged in the new WQA, and a bi-national strategy to address these new pathways needs to be identified and established. This would require a new approach that focuses on preventing the introduction of toxics in industrial and commercial products and processes. This approach must include green chemistry, chemical replacement, and pollution prevention.

In the context of pollution prevention, the agreement should call on a review of the practice of siting nuclear reprocessing and storage sites in the Great Lakes and St. Lawrence basin.

The toxics annex should identify a new class of chemicals that threaten the Lakes, including flame retardants and pharmaceuticals. Once a list has been agreed to, the Agreement needs a binational toxics strategy that goes beyond the existing strategy. While the existing strategy has been effective at coordinating the actions of the two Parties, it has been less successful at enforcing their mutually agreed-to goals. An enforcement and accountability mechanism to hold parties accountable to the commitments they make with respect to controlling toxics is needed in the Agreement.

Binational action on toxics was the hallmark of the last agreement. It is the Water Quality Agreement that must lead, not follow, national action on toxics. The Great Lakes region is a unique ecosystem and has a higher concentration of toxic discharges than most other regions in North America. That is why it needs its own specialized targets and strategies. These targets and strategies can be tested in the region, and spread to the national level over time.

Finally, there is increasing pressure on municipalities to upgrade their sewage treatment systems to more effectively remove toxics from the sewage effluent. Absent substantial federal financial resources, municipalities cannot and should not be expected to bear the burden of upgrading their sewage treatment systems to remove toxics that should not be in the effluent in the first place. This simply is not the appropriate end of the system to remove these chemicals. It is in the design and production stage that chemicals must be phased out or captured. Relying on sewage treatment guarantees a growth in the chemicals in products and an uneven ability to remove them from products or the wastewater stream.



3. NEARSHORE, BEACHES

The new emphasis on nearshore quality is welcome. It must be acknowledged, however, that this new dimension to the WQA dramatically expands the scope of the agreement, and to be effective, must directly involve local government. It is still unclear what capacity or resources are available to devote to this expanded work. Given the direct authority that municipalities have over much of the activity and land use planning on the nearshore, it is important to work in cooperation with municipalities and to provide the necessary funding to undertake the work that is necessary.

Given the limited federal involvement in nearshore activities, there is a temptation to devote federal resources to analysis and assessment rather than action. It is our fear that this approach would result in resources being spent on studies and plans that would be out of date nearly as soon as they were completed.

Great Lakes and St. Lawrence cities mayors strongly urge the Parties to focus their efforts on collaborative action to protect the nearshore. Priority could be given to areas where there are already initiatives under way and local or regional buy-in to take action. For instance, the South Huron Regional Initiative, and the Southern Georgian Bay collaboration in Ontario are good examples of on the ground organization, where various concerned interests have come together to protect the area. The WQA and the Parties should build on these types initiatives, by providing technical support and financial resources.

Given that the Cities Initiative is advocating that the St. Lawrence be brought into the WQA, we would also recommend that the emphasis on nearshore quality include action to combat erosion. This is a localized problem along some of the Great Lakes shoreline, but is a serious problem all along the St. Lawrence. Objectives and measures to address erosion should therefore be included in the WQA.

Beaches are an important feature of the nearshore. Beaches connect the public to the lakes, and can shape a community's impression of the lakes. Beaches can also contribute significantly to the local economy. If the entire Great Lakes region invested in better beaches, the region could be promoted as a major beaches destination. For these reasons, GLSLCI recommends that the WQA include support for beaches improvement and promotion.

4. CLIMATE CHANGE

The future of the Great Lakes, in terms of both quality and quantity, cannot be considered without taking the impact of climate change into account. So far reaching are its implications that the entire WQA should be reviewed within the context of climate change.

There has been considerable debate over whether the emphasis should be on climate change adaptation or mitigation. The GLSLCI believes that making a distinction between the two is unhelpful and even erroneous. On the ground, adaptation measures result in



greenhouse gas reductions and vis versa. The WQA therefore needs to avoid any simplistic separation of adaptation and mitigation measures.

The GLSLCI supports recommendations from a coalition of NGO groups, namely,

- a) The Parties should commit in the WQA to develop a binational Great Lakes and St. Lawrence River visionary guidance and plan for the Great Lakes region to set goals for dealing with climate change.
- b) The Parties should create a board of experts and stakeholders with the mandate to
 - a. assess the state of regional climate change knowledge, models, and adaptation measures,
 - b. determine program and project priorities and commensurate funding; and
 - c. recommend policies and strategies for adaptation, resilience, and mitigation of ecological impacts from a changing climate.

5. AQUATIC INVASIVE SPECIES

The GLSLCI agrees that AIS should be added to the WQA. AIS represent one of the greatest threats to the Great Lakes system, not only in terms of the damage to the aquatic food chain, but also to the quality of the water. For example, invasive mussels such as quagga and zebra mussels, are known to produce more phosphorus and to filter the water to allow for deeper penetration of sunlight, causing an explosion of algae growth.

Despite this clear and direct threat to the quality of the Great Lakes, there remains a fractured response to AIS binationally. The WQA should lay out an aggressive harmonized strategy to prevention, early detection, rapid response, at the binational level. This strategy should encompass all vectors and pathways for AIS entry into the lakes. It should also include the prevention and control of aquatic and shoreline invasive vegetation, that can also have a devastating effect on the surrounding ecosystem.

With the responsibilities of the Great Lakes Fishery Commission for invasive species and fishery management, the work of the International Joint Commission and the Parties on AIS within the context of the WQA should be fully coordinated with Great Lakes Fishery Commission.

6. HABITAT AND SPECIES

Related to the above, and to the emphasis on the nearshore, GLSLCI supports calls for a new annex on habitat and species. The WQA should contain a major goal of protecting and restoring habitat that enhances water quality. This would include protection and restoration of habitat, species, biological integrity, including wetlands protection, conservation and resilience.



7. SCIENCE

The Binational Executive Committee has made significant progress in recent years of creating a structure that will strengthen the linkage between Great Lakes science and policy at the decision making level in government. It is important that the Parties remained focused on their commitment to strengthening this linkage.

8. PUBLIC ACCESS TO INFORMATION

With better and more focused science and information coming forward, it is now important to make this scientific information accessible to public in a format that is understandable to public. This access to information can be facilitated through the use new electronic technologies.

Public access to scientific information is essential to the democratization of decision making on the Great Lakes. By this we mean that public access to information creates a virtuous cycle, whereby scientific researchers may be influenced by decision makers and the public with regard to the information that would be of most value to them, decision makers may be influenced by scientific researchers and the public with regard to the prioritization of issues to be addressed, and the public is served by being better informed of the science and decisions made on the Great Lakes and St. Lawrence.

9. GOVERNANCE (previously submitted, 02.10)

Role of cities

The significant role cities and other local governments in protecting and restoring the Great Lakes should be fully recognized within the new Agreement and formally integrated into GLWQA implementation through binational and domestic mechanisms.

- Within the GLWQA, explicitly distinguish between goals and targets that are the sole responsibility of the signatories, and those which can only be achieved in partnership with other orders of government;
- Federal Government signatories to the GLWQA (the Parties) identify the mechanism through which the intergovernmental collaboration will be agreed to, resourced and achieved, eg. through the Canada-Ontario Agreement, Great Lakes Regional Collaboration Strategy, and planning documents used to implement the Agreement, lake-specific committees federal/state or provincial/municipal memorandum of cooperation, or other new mechanisms;
- Specific recognition of local government authority in such areas as managing waste water, storm water, and drinking water; land use control, including building permits;



- managing beaches and parks; providing marinas and licensing pleasure boats and tourist boats; Port authority responsibilities for ports; among others
- Obligations that require the collaboration of other governments to be achieved must be adequately resourced by the Parties.

Accountability and Effectiveness

To make the implementation of the GLWQA more effective and the parties to the GLWQA more accountable, direct lines of responsibility to achieve outcomes must be transparent, means to measure progress must be identified, and a robust audit function must be built into the agreement to assess progress in achieving these outcomes.

- the agreement itself must have clear outcomes;
- the agreement should require that parties to the agreement must work together with government partners and stakeholders to develop a Great Lakes Plan (GL Plan – described below) which would elaborate on how to achieve those agreement’s outcomes.
 - The GL Plan would include specific actions, responsibilities, and timelines to achieve the outcomes outlined in the agreement.
 - The GL Plan would be implemented in the US and Canada through their own domestic mechanisms. These existing mechanisms and the GL Plan should be fully integrated.
- the agreement should include a requirement that an independent audit of Parties’ progress in meeting commitments in the GLWQA be performed by the US Government Accountability Office (G.A.O.) and the Canadian Auditor General’s (AuG) office every three to five years, with a requirement that the GAO and the AuG jointly report to Congress and Parliament through a designated congressional committee and parliamentary committee.
- The agreement should also require that accountability between the parties be strengthened through an enhanced role for the Binational Executive Committee which would include, among other functions, ensuring direct responsibility for actions, results, outcomes and ongoing measurement of progress.

Great Lakes Plan

Require in the GLWQA that Parties with full participation from government partners and stakeholders jointly create a bi-national Great Lakes Plan (GLP).

- The GL Plan would integrate existing plans for each of the five lakes, plus the connecting channels,
- The Lake Plans would include, either by reference or with specific provisions, Watershed Action Plans (the new RAPs) and plans that have been developed by federal agencies, states and provinces, tribal and first nation governments, and local authorities.
- The GL Plan would include, by reference, work done under other authorities, such as US Superfund, US Clean Water Act, US Resource Conservation and Recovery Act, Canadian Environmental Protection Act, Canadian Fisheries Act, and other relevant authorities.
- The GL Plan would be revised every five years, with mid-term review in the third year of implementation, with appropriate adjustments for adapting to changes.



Saint Lawrence River

- The Saint Lawrence River should be included in the Great Lakes Water Quality Agreement, and a watershed management plan for the St. Lawrence should be required under the agreement.
- If the Saint Lawrence is not included, as a first step the Parties should consider and document the important ecological linkages between the Great Lakes and the St. Lawrence. Such linkages should include, but not be limited to, ecological and economic implications of water levels, climate change, nutrient and toxic loads from lakes into river, the integration of ZIPs and RAPs in the area where Lake Ontario and the St. Lawrence meet (see wording from Marc Hudon) , invasive species, erosion from water levels, climate change, shipping.

Funding

The parties to the Agreement should make the necessary financial commitments to ensure its full implementation.

- Ensure that commitments made in the GLWQA are supported by sufficient multi-year budget commitments in both the U.S. and Canada.
- Make funding for site specific protection and remediation efforts directly available to all Great Lakes communities, not just Areas of Concern, based on specific criteria.
- Obligations that require the collaboration of other governments to be achieved must be adequately resourced by the Parties.

MANAGEMENT STRUCTURE

Binational Executive Committee

The BEC's roles and responsibilities should be clearly laid out in new terms of reference.

Roles

- (1) to ensure the efficient and effective implementation of the GLWQA, and the binational Great Lakes Plan
- (2) to serve as a forum to seek agreement on collaborative actions amongst key government partners for those outcomes that require state/provincial/municipal/Tribe and First Nation intergovernmental cooperation;
- (3) to keep stakeholders fully informed of progress on implementation on the GLWQA and Great Lakes Plan,
- (3) to consider changes to objectives, priorities and actions based on new information on changing conditions in the lakes; and
- (4) to report publicly on its decisions and reported progress from each of its meetings.



Responsibilities

- Track progress in meeting outcomes in the GLWQA and in implementing the Great Lakes Plan– actions taken, reductions in loadings/stressors, environmental progress through new and improved SOLEC
- Integrate science into policy and programs, from various sources including newly constituted Great Lakes Plan, LaMPs or successor lake-specific entities, SOLEC, IJC, cooperative science and monitoring initiative.
- Approve and oversee Great Lakes Plan, 5-year revisions
- Approve and oversee LaMPs or successor lake-specific plans.
- Revise objectives and actions due to changes in conditions in the lakes, based on information brought forward by Great Lakes Plan, LaMPs (or successor), SOLEC, IJC, cooperative science and monitoring initiative, other governments and stakeholders.
- Seek agreement with government partners to achieve outcomes that require intergovernmental collaboration.
- Report to other Party, other levels of government, and stakeholders on domestic workplan and progress.
- Problem solve and dispute resolution between Parties

Membership

- Federal Governments – necessary parties with decision making authority
- States/Provinces – essential participants
- Local governments – essential participants
- Tribal/First Nation governments – essential participants;
- Stakeholders – Full participants in advisory capacity

International Joint Commission

IJC roles and responsibilities with respect to the Great Lakes should remain largely the same, including:

- Reporting on progress of parties in meeting outcomes outlined in GLWQA;
- regulatory role in controlling Great Lakes water levels ;
- Public communication and consultation on Great Lakes priorities;
- Bring forward information to BEC that will be considered under 'adaptive management' framework

Proposed changes to the IJC

- Duplication should be minimized by combining its current committee structure into one Board, which incorporates the Science Advisory Board, the Water Quality Board, the Great Lakes Researchers, and the Air quality Board. The one Board should focus on program effectiveness and scientific knowledge, and should protect the scientific integrity of its members.
- Activities and relationship between the IJC and Great Lakes Fisheries Commission should be further integrated.



Lake-specific planning and actions

Replace LaMPs on a phased schedule in the future with new lake-by-lake planning function that include full ecosystem considerations and are coordinated by lake-specific management committees for each lake (LEMC, LMMC, LSMC, LOMC, LHMC).

Roles

- Focus on delivering GLWQA goals and targets at lake-specific level, with particular emphasis on coastal area/watershed health.
- Broker agreements with federal, state, provincial, tribal, First Nations, and local government agencies and other partner organizations regarding who will undertake specific actions or be responsible for specific outcomes.

Responsibilities

- build on existing LAMPs to develop collaborative lake-specific management plans.
- track progress.
- raise high priority concerns about implementing the plan or other matters to the BEC
- seek agreement on collaborative actions amongst tribal/First Nation, provincial and state, and federal governments where outcomes require collaboration.
- Develop and support implementation of the GLWQA and the binational Great Lakes Plan with goals to tackle lake-specific issues, taking local conditions into consideration.
- Coordinate activities of various agencies and stakeholders on the lakes towards objective, desired outcomes in the GL Plan. Federal, state, provincial, tribal, first nation, and local jurisdictions will have primary responsibility for implementing the plans, with actions also by the private sector and non government organizations.
- Annual progress reports, 3 year assessment and revisions, with full stakeholder and public involvement
- Increase communication
- Bring forward information to BEC that will be considered under 'adaptive management' framework.
- Problem Solving and Dispute Resolution
- Conduct meetings in public and based on consensus. Where consensus cannot be achieved, majority opinion and minority report.

Membership (on each ctee)

Senior operations officials from:

Federal

Provincial/state

First Nations/Tribes

Municipal

Relevant delivery partners and agencies

Other stakeholders



Areas of Concern/Remedial Action Plans

- All remedial actions plans should be fully financed, cleaned up, and delisted.
- Boundaries of the AOCs should be redrawn to properly reflect the watershed and renamed to be “Priority Watersheds.” The RAPs should be replaced by “Watershed Restoration Action Plans.”
- Each “Priority Watershed” should have a “Watershed Action Committee” made up of appropriate federal, state, provincial, tribal, first nation, and local government representatives, as well as stakeholders, all with an equal voice.
- The WAC will operate on a consensus basis, but if consensus cannot be reached, decisions will be made by a majority of the WAC, with opportunity for a minority report, and consideration of the minority position by the appropriate Lake Committee.

State of the Lakes Conference (SOLEC)

Role (for the purposes of GLWQA)

- Undertake research and analysis that will result in information that provides answers to the following questions: Are the Lakes getting cleaner, dirtier, or staying the same? Are the Great Lakes Plan, Lake Plans, and RAPs doing what they were intended to do? What is the best science available to inform the policy decisions that need to be made on the Great Lakes?
- BEC should provide SOLEC funding and explicit direction on what it must report on, using which indicators, etc. to measure progress and to give advice on adaptive management.
- Identify the top ten indicators that most accurately reflect the health of the Great Lakes ecosystem.

AGREEMENT STRUCTURE

Agreement structure

The new agreement should be one that includes the general articles that are in the current agreement, plus a vision, principles, goals, objectives, and outcomes.

- identify the issues that the parties must address, with more specificity on implementation in the Great Lakes Plan (climate change, invasive species, etc.);
- call for the Lake-specific Plans and Watershed Restoration Action Plans, and create the structures and processes to develop and implement the Plans
- Less detail in annexes, more focused on outcomes. But require within agreement the development of a basin-wide Great Lakes Plan to implement annexes, achieve outcomes.



Vision

Articulate a vision that both countries and all interested governments and stakeholders can use as the desired future state of the Great Lakes and which inspires the work of all involved in the effort and serves as a “North Star” to the future.

Scope

A broad scope encompassing ecosystem management and consideration of the full range of stressors on the system.

Geographic scope

The scope of the agreement should include the St. Lawrence. If this is not immediately possible, the agreement should call for consideration and documentation of the important ecological linkages between the Great Lakes and the St. Lawrence.

Issues

The Agreement should explicitly address climate change in an integrated way throughout the agreement.

Principles

Principles should be used to help interpret the meaning of commitments and method of addressing the commitments under the Agreement.

Existing principles that should be carried into new agreement include:

- Pollution prevention
- Virtual elimination based on zero-discharge.
- Polluter pays
- Watershed planning
- Parties are responsible for implementation
- Accountability

Revisions

- Revise GLWQA on a ten-year cycle.
- Revise binational Great Lakes Plan on a 5-year cycle.