

Compendium of Position Papers

A Four Agency Framework of
Roles and Responsibilities for
Implementation of the
Detroit River, St. Clair River
and St. Marys River
Areas of Concern
Shared Remedial Action Plans

Feb. 2, 2000

Preface

The Great Lakes Water Quality Agreements (GLWQA) of 1972 and 1978 committed the governments of Canada and the United States to restore and enhance water quality in the Great Lakes System. The signing of the Amendments to the 1987 Protocol to the GLWQA further committed the governments of Canada and the United States to development and implementation of Remedial Action Plans (RAPs) for Areas of Concern (AOCs) in the Great Lakes. Three of these AOCs lie within rivers that act as shared natural boundaries between Canada and the United States, Ontario and Michigan – the Detroit River, St. Clair River and St. Marys River.

The United States and Canada have pledged their cooperation to restore these shared upper connecting channel AOCs under the terms of the GLWQA. A Four Agency Letter of Commitment was signed on April 17, 1998, by Environment Canada, Michigan Department of Environmental Quality, Ontario Ministry of the Environment, and the United States Environmental Protection Agency.

The letter identifies roles and responsibilities of the Four Agencies for the three shared AOCs, details commitments and strategies and highlights the importance of leadership. The Four Agencies will demonstrate their leadership through visibility, by empowering local leadership, by contributing to and facilitating implementation activities, by recognizing successes, by actively pursuing solutions to problems, by helping to define research needs and gaps and by facilitating the transfer of information and methodologies.

The Four Agencies have developed the following position papers to explain how commitments made under the Letter of Commitment and the GLWQA will be applied to the shared AOCs. This compendium contains the 1998 Four Agency Letter of Commitment, the position papers, and the appendices.

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1. Administration

Letter of Commitment References

1.1 The Four Agencies recognize that each has responsibilities to support commitments made in the GLWQA as well as responsibilities under its respective regulatory system which each Agency will continue to adhere to.

1.2 The Four Agencies recognize the need to cooperate to achieve the goals outlined in each shared AOC as well as the need for each Agency to accomplish this through their individual distinctive forms of government, institutional arrangements, and approaches to RAP development and implementation.

1.3 The roles and responsibilities of the Four Agencies defined in this Letter of Commitment will apply to all shared AOCs.

1.4 Canadian Agencies are to have the primary responsibility for the administration of the shared activities for the St. Marys and St. Clair RAPs, and the U.S. Agencies are to have the primary responsibility for the administration of the shared activities for the Detroit River RAP.

1.5 The Four Agencies intend to identify a contact/liaison for each of the shared AOCs.

1.6 The Four Agencies recognize that part of the shared accountability is to promote RAP implementation and to persuade other implementers to undertake remedial work within the appropriate jurisdiction.

1.7 The Four Agencies are committed to facilitating development of implementation mechanisms for the shared AOCs with local stakeholders and the public. It is recognized that the Four Agencies may contribute funds or other resources, separately or within partnerships, in support of these mechanisms and that these implementation mechanisms may be different for each shared AOC.

Introduction

The following administrative roles and responsibilities structure provides a mechanism for cooperation between Canada and the United States, while recognizing the national, provincial and state regulatory systems already in place.

- Individual agencies will focus their existing and new programs and resources to restore the shared Areas of Concern (AOCs) and will encourage other organizations to do likewise.

- To achieve the goals outlined in each shared AOC, the Four Agencies will cooperate on issues such as:
 - data sharing and consistency
 - promoting standardization of environmental criteria
 - binational delisting criteria
 - monitoring
 - public involvement
 - research
 - reporting progress
 - pooling resources

- To facilitate cooperation, the Four Agencies establish the following new committees under the Letter of Commitment, and agree to staff these committees at the appropriate level.

Four Agency Letter of Commitment Structure

1. Four Agency Management Committee – This umbrella committee oversees the shared AOCs. The membership consists of senior representatives from each of the Four Agencies. Their charge is to ensure that these RAPs proceed in a timely, consistent manner and that binational tasks are completed.

 2. Working Group – This group ensures that technical issues are addressed, mediates disputes, coordinates state, provincial and federal resources among the shared AOCs and ensures that progress reports are issued in a timely manner. The Working Group is not responsible for writing the progress reports. Membership consists of representatives from each of the Four Agencies.

 3. Ad-Hoc Technical Teams – Teams of technical experts will be called as needed by the Four Agencies to resolve technical issues and to review RAP documents.
- The roles and responsibilities of the Four Agencies defined in the Letter of Commitment will apply to all shared AOCs.

- Working in conjunction with stakeholders, the lead agencies will be primarily responsible for activities such as:
 - preparation, printing, and distribution of Progress Reports
 - support for and convening the biennial meeting
 - binational communication
 - binational public involvement and outreach
 - coordinating development and review of binational delisting criteria
 - coordinating and facilitating monitoring to track progress toward delisting

- The agency contact will be the working group member for the shared AOCs. See Appendix 2.

- The Four Agencies will promote RAP implementation by applying their individual programs and encourage others to do the same by:
 - advocacy within respective jurisdictions
 - visibility
 - leadership by example
 - innovative partnerships
 - creative funding
 - providing information to and involving elected officials
 - promoting multi-media environmental restoration
 - researching and promoting socio-economic/environmental benefits of remediation

- The Four Agencies are committed to facilitating development of implementation mechanisms for the shared AOCs with local stakeholders and the public. The Four Agencies may contribute funds or other resources, separately or within partnerships, in support of these mechanisms and these implementation mechanisms may be different for each shared AOC.

Local RAP Implementation Structures

- Public and stakeholder involvement is an integral part of local RAP structures. These action oriented local structures have been or will be developed for each of the shared AOCs and are presented in Appendix 4. Responsibilities include:
 - coordinating and facilitating RAP implementation
 - establishing priorities
 - seeking funding
 - developing partnerships
 - serving as a vehicle for public and stakeholder activities
 - conducting necessary studies

2. Binational Delisting

Letter of Commitment References

2.1 The Four Agencies have responsibility to coordinate continued development and review of measurable and achievable delisting criteria and will ensure the process used to develop these criteria involves the public and stakeholders.

2.2 The Four Agencies intend to develop a process for delisting shared AOCs, recognizing differences in each of the AOCs in implementation of this process.

2.3 The Four Agencies recognize the need to coordinate and facilitate monitoring and surveillance efforts to track progress towards delisting.

Introduction

The Four Agencies will coordinate a binational delisting process and will coordinate and facilitate monitoring efforts to track progress toward delisting. The Four Agencies will also oversee the peer review of the redesignation of beneficial uses and delisting of an Area of Concern (AOC) to ensure the process is credible and scientifically defensible.

Delisting Criteria

“The Parties shall cooperate with State and Provincial Governments to classify Areas of Concern by their stage of restoration progressing from the definition of the problems and causes, through the selection of remedial measures, to the implementation of remedial programs, the monitoring of recovery, and, when identified beneficial uses are no longer impaired and the area restored, the removal of its designation as an Area of Concern.” [GLWQA, Annex 2, 4.(c)] Delisting criteria are benchmarks used to assess the progress toward restoration of use impairments.

The Four Agency Working Group will oversee the continuing development of delisting criteria and setting of interim restoration targets. Once delisting criteria have been approved for an AOC, the Four Agency Working Group will periodically review and evaluate the validity and achievability of the delisting criteria through internal and external peer review. Development and review of delisting criteria will be done in consultation with the public and stakeholders.

The following principles are to be applied in the development and evaluation of these criteria:

- Delisting criteria should be developed and periodically reviewed on a site specific basis by the respective federal, state, and provincial agencies, in conjunction with the public and stakeholders.
- Delisting criteria should be premised on:
 - locally defined usage goals and related environmental objectives for the water body containing the AOC
 - applicable federal, provincial or state regulations, objectives, guidelines, standards and policies
 - the principles and objectives embodied in Annex 2 and supporting parts of the GLWQA
- Delisting criteria should be based on measurable indicators (e.g., numeric concentrations of a particular pollutant within the AOC) wherever possible.
- Delisting of a particular impairment in an AOC can occur if it can be demonstrated that the impairment is not solely local geographic extent, but is typical of lake wide conditions. Such delisting would be contingent on evidence that sources within the AOC are controlled.
- Delisting of a particular impairment can also occur when it is demonstrated that the impairment is due to natural rather than human causes (to be clarified with the IJC in the context of the GLWQA Annex 2 Review).

Process for Redesignation of Beneficial Use(s)

1. Recommendation for Redesignation –The local Remedial Action Plan (RAP) implementation committee(s) recommends a change of status. It should be accompanied by documentation and data to substantiate that the status of a beneficial use be redesignated.
2. Peer Review – The Four Agency Working Group designates a Technical Review Team to review the request. This Technical Review Team shall be composed of experts not directly involved in the RAP that is being examined, and may include non-Agency experts or others, as the Four Agencies deem appropriate. The respective lead national, provincial or state agencies will convene a review meeting, at which the local implementation committee presents the request for

redesignation with supporting data and documentation to the Technical Review Team. This meeting shall be open to members of the local RAP committee(s) and to the general public. This review meeting is intended to be an informal session to allow the experts and the public to exchange information and ask clarifying questions. The review team may need additional information and may not necessarily come to a decision on the recommendation by the end of the meeting. The Technical Review Team provides their recommendation to the Four Party Management Team.

3. Decision by Management Team – The Four Agency Management Team issues a decision on whether to support the recommendation within a reasonable time frame.
 - If the Four Agency Management Team supports the recommendation, they will send an official statement of concurrence to the local RAP implementation committee and the Regional Office of the International Joint Commission (IJC).
 - If the Four Agency Management Team does not support the recommendation or needs more information, it will formally respond to the local implementation committee and remand the documentation to the Four Agency Working Group. The Working Group will then resolve any remaining issue(s) on the documentation with the local RAP implementation committee (which may include informal Dispute Resolution).
4. Celebration of Achievement – The local RAP implementation group who initiated the request should then issue a notice of the restoration of beneficial use(s) (if delisting a previously impaired beneficial use) and acknowledge this milestone in conjunction with the Four Agencies. The Four Agencies will also issue similar notices and highlight this achievement.

Process for Delisting an Area of Concern

The ultimate goal for a RAP is to restore and protect beneficial uses in an AOC. Delisting of an AOC would occur when all the individual delisting targets/criteria have been met.

The GLWQA states that the Parties *“in cooperation...with the Commission shall designate Areas of Concern.”* The “Four Parties” interpret the term “cooperate” to mean that the parties, while ultimately responsible for listing (and delisting), will seek input from the International Joint Commission (IJC) on any recommendation to delist an AOC.

A final RAP Report would be produced and submitted to the IJC for review and comment when *“monitoring indicates that identified beneficial uses have been restored based on...an evaluation of remedial measure implementation and effectiveness; and the surveillance and monitoring process...(that has) track(ed) the effectiveness of the measures and the confirmation of the restoration of uses”* [GLWQA Annex 2, 4.(d)(iii)].

The process for delisting an AOC will be initiated by the local implementation committee when all the delisting criteria have been met. The Four Agencies will then oversee the preparation of a Final RAP Report and coordinate the delisting process. The following steps will be undertaken to delist an AOC:

1. Recommendation for Delisting – The Lead Agencies and the local RAP implementation committee(s), working in consultation with the public and stakeholders, submit a recommendation to delist an AOC and a Draft Final RAP Report to the Four Agency Working Group.
2. Four Agency Review – The Four Agency Working Group coordinates review of draft final RAP Report, including content and policy review, technical review and informal consultation with IJC staff. Working with the local RAP implementation committee(s), the Working Group will also be responsible for identifying additional data needs, resolving policy issues, and overseeing revisions to the report.
3. Public Consultation – The local RAP implementation committee in consultation with the Working Group then formally presents the Revised Final RAP Report for review and comment to the public and stakeholders. After considering comments, the Lead Agencies in consultation with the local RAP implementation committee(s) prepares the Final RAP Report.
4. IJC Great Lakes Office Consultation – The Four Agency Management Committee consults with the Director of the IJC Great Lakes Regional Office on the final RAP Report and the recommendation to delist.
5. Four Agency Approval – The Four Agencies send letters recommending the AOC delisting to the United States State Department and the Canadian Department of Foreign Affairs.
6. IJC Input – The final RAP report is transmitted by the offices of the United States Secretary of State and the Canadian Minister of Foreign Affairs to the IJC for review and comment.
7. Delisting – The United States Secretary of State and the Canadian Minister of Foreign Affairs officially remove the affected water body from the list of AOCs.

Monitoring

The Four Agencies will coordinate and facilitate monitoring efforts to establish baseline conditions and track progress toward the restoration of beneficial uses. The Four Agencies will work with the local RAP implementation committees to develop a Monitoring Plan for each AOC. For the St. Clair and Detroit Rivers the goal of the Four Agency Working Group will be to explore the feasibility of developing a coordinated monitoring program for the “Lake Huron to Lake Erie corridor”, building on existing efforts.

The Four Agencies will identify and coordinate monitoring programs to maximize consistency and effectiveness. These programs should include, but are not limited to: permit monitoring, utility and municipality monitoring, supplemental monitoring obtained through legal settlements, and environmental quality monitoring conducted by citizens, industry, government agencies and academic institutions.

Monitoring Plans for each AOC will be developed in accordance with the schedule of the initial Progress Reports. They will be updated as part of future Progress Reports.

3. Public Involvement and Outreach

Letter of Commitment References

3.1 The Four Agencies have collective responsibility to ensure public and stakeholder involvement is an integral part of the RAP process.

3.2 The Four Agencies are committed to taking leadership for celebration of implementation successes, including formal recognition of the contribution towards implementation by volunteers or specific implementors.

1.7 The Four Agencies are committed to facilitating development of implementation mechanisms for the shared AOCs with local stakeholders and the public. It is recognized that the Four Agencies may contribute funds or other resources, separately or within partnerships, in support of these mechanisms and that these implementation mechanisms may be different for each shared AOC.

2.1 The Four Agencies have responsibility to coordinate continued development and review of measurable and achievable delisting criteria and will ensure the process used to develop these criteria involves the public and stakeholders.

4.1 The Four Agencies intend to develop one format for reporting progress to both the International Joint Commission and the public biennially. These Progress Reports, developed in conjunction with local stakeholders, are to be submitted jointly by the Four Agencies upon agreement to their contents. The focus of the Progress Reports will be to reflect progress in implementation, update technical information, assess progress towards achieving the delisting criteria, as well as highlighting progress towards achieving priorities defined by previous reports.

5.1 The Four Agencies recognize that their leadership will be an important factor in the cleanup of the shared AOCs. Four Agency leadership is to be demonstrated by visibility, by empowering local leadership, by contributing to and facilitating implementation activities, by recognizing successes, by actively pursuing solutions to problems, by helping to define research needs and gaps and by facilitating the transfer of information and methodologies.

Introduction

This Issue Paper addresses public involvement and outreach as an integral part of the Remedial Action Plan (RAP) process in Areas of Concern (AOCs).

The public and stakeholders are an integral part of the RAP process. Their participation validates the concepts of environmental protection and restoration through activities demonstrating the community concern for those goals. The agencies will support local, national, and international actions through grants and in-kind participation. Those activities are intended to:

- maintain public interest in and awareness of local environmental quality issues through public involvement strategies
- provide a continuing basis for broader community support for RAP implementation
- facilitate funding and partnership opportunities to restore AOCs

In order to support and promote the public involvement and outreach efforts of local implementers and implementation committees, the Four Agencies will provide financial and in-kind support for the following core binational public involvement activities:

1. Biennial Reports: At least one for each AOC, as described in the Progress Reporting Position Paper.
2. Biennial Meeting: A biennial meeting in each AOC to coincide with release of the Biennial Report. The target audience is implementors and decision-makers. The meeting will be advertised to the public. Objectives of the meeting are to:
 - report on accomplishments and environmental progress
 - heighten public awareness and support of RAP implementation and issues
 - identify priority projects and funding opportunities
 - recognize volunteers and implementors
 - facilitate information sharing and coordination of activities
 - acclaim successes
3. Technical reports: Prepared for each AOC. However, any technical report with scholarly language will have a companion document or executive summary containing the same information in plain language.
4. Electronic information sharing: Current information about the shared AOCs will be maintained on the Great Lakes Information Network (GLIN) and the Great Lakes Information Management Resource (GLIMR). All public documents, RAPs, and Biennial Reports will be available on line. List serves and electronic bulletin boards will be developed to facilitate information sharing.
5. Workshops: The Four Agencies will involve the public and stakeholders in development and periodic review of delisting criteria or other relevant subjects as agreed upon.

6. Fact sheets, news releases and periodic updates: The Four Agencies will collaborate and provide financial and in-kind support for creating and distributing fact sheets, technical reports, news releases, and other periodic updates on activities.

Other Activities

In addition to the above, the Four Agencies on an AOC-specific basis may provide support for other public involvement activities such as:

- education programs
- tours of AOCs
- displays
- forums or workshops on specific topics

The Four Agencies will ensure that stakeholders are engaged in the process, in partnership with community organizations, and recognize the accomplishments of volunteers and implementers through certificates or awards as well as news releases citing achievements.

A recognition ceremony will be held at the biennial meeting during which volunteers and implementers will receive acknowledgments for outstanding accomplishments.

4. Progress Reporting

Letter of Commitment References

4.1 The Four Agencies intend to develop one format for reporting progress to both the International Joint Commission and the public biennially. These Progress Reports, developed in conjunction with local stakeholders, are to be submitted jointly by the Four Agencies upon agreement to their contents. The focus of the Progress Reports will be to reflect progress in implementation, update technical information, assess progress towards achieving the delisting criteria, as well as highlighting progress towards achieving priorities defined by previous reports.

Introduction

The Four Agencies agree to develop a single format for reporting progress to the International Joint Commission (IJC) and the public through the issuance of biennial reports. These reports are to be developed in conjunction with local stakeholders and submitted jointly by the Four Agencies upon agreement to their contents. The Four Agencies will ensure that these reports are actively distributed to the general public and are made available electronically.

Format

The Four Agencies intend that the Biennial Reports be short, objective updates on progress of the Remedial Action Plans (RAPs). These periodic reports are not intended to replace longer technical documents that may be issued separately. One (1) binational report will be issued for each shared Area of Concern (AOC), instead of separate Canadian and U.S. submissions. The report will focus on the status of RAP implementation activities, update technical information, highlight progress on priority recommendations from previous reports and note progress toward the restoration of beneficial use impairments and delisting criteria.

The Biennial Report will briefly reference past reports to provide the reader with adequate background information. A list of RAP related publications and other data sources will be included in the report. The Biennial Report will be based on detailed technical reports and analyses. Summary information and analysis of data will be included rather than detailed technical information or raw data.

While the precise format of the report must reflect the needs of the local site, each Biennial Report must contain, at a minimum, the following components:

1. AOC Status

This section relays the current status of the RAP in a visual format such as charts or graphs. The use of visual aids will provide a quick reference guide to progress on implementation of cleanup actions and the status of restoration of beneficial uses as compared to the previous reporting period.

2. Highlights - Overview - Executive Summary

This section serves as an opportunity to flag major developments, issues, trends, events, benchmark reports, restoration, or near restoration, of a given beneficial use. This section should also include overview comments for a given sector (e.g., industrial abatement in an AOC proceeding faster than expected). The primary function of this section is to encapsulate the RAPs current status and progress.

3. Progress On Implementation

This section should report on tangible implementation, organized by major subject area (e.g., issue based or activity based). The report should contain information on progress, next steps, an implementation outlook for each subject area, and maps locating each action in the AOC.

4. Progress On Restoration

The intent of this section is to go beyond simple reporting of monitoring actions or data. The report should contain summaries of monitoring results, identify trends if present, and indicate progress toward restoring individual impaired uses and achieving delisting criteria. This section also provides the opportunity to demonstrate incremental progress.

5. Schedule and Implementation Outlook

This section provides the opportunity to flag major forthcoming events, timing of cleanup activities and other priorities. The information should be summarized in a time line format.

6. Public Involvement and Outreach

This section highlights public involvement and outreach activities that occurred during the reporting period.

7. Other Activities

This section provides the opportunity to flag activities not included above but still of importance. For example, such activities include community volunteer cleanup days, activities by groups not affiliated with the local RAP implementation structure, etc.

Authorship and Audience

Working in conjunction with other stakeholders, the lead agencies will have overall responsibility for preparation, printing, and distribution of biennial Progress Reports. Individual multi-stakeholder RAP Implementation Teams/Committees will play a significant role in report preparation. The Four Agency Working Group will be responsible for coordinating review of the Progress Report, including circulating the Report for review, responding to comments, and then forward it to the Four Agency Management Team for final approval and transmission to the IJC and the public.

The target audiences for the report are the local stakeholders involved in RAP implementation.

Cost

The Four Agencies will provide financial assistance and in-kind support to assist in report preparation and communication and dissemination with a greater share of support provided by the designated lead agencies for each AOC. To minimize additional work, the format intentionally borrows heavily from the current reporting styles for RAPs used by Canada-Ontario and the Michigan RAP strategy.

Frequency and Timing

The parties must report at least biennially and can report more frequently if desired. The schedule for completion of the first progress reports is as follows:

Detroit River.....	Spring 2000
St. Clair River.....	Fall 2000
St. Marys River	Fall 2001

Subsequent reports will be issued every two years to coincide with either State of the Lakes Ecosystem Conference (SOLEC) or the IJC biennial meeting. The Working Group will monitor document production schedules and take steps to ensure the schedules are met.

Electronic Reports

The Four Agencies will ensure that the Biennial RAP related reports are posted electronically on web sites such as the Great Lakes Information Network (GLIN) and the Great Lakes Information Management Resource (GLIMR), and will develop list serves and electronic bulletin boards to stimulate AOC related discussions. In addition, a limited number of printed copies will be made available by the designated lead agencies. These sites will be updated annually and more frequently if necessary.

Reports posted electronically will include hyperlinks for program and contact information, data sources and related sites. Electronic reports should also contain provisions to accept comments electronically in order to facilitate feedback on the reports.

Final RAP Report

When delisting criteria have been met, a final RAP report will be prepared which summarizes the strategy implemented to restore beneficial uses and to meet locally defined water quality goals in the AOC. The Report should also reference previous Biennial Reports and include a list of publications and actions that demonstrate completion of Stages 1, 2 and 3 of the RAP process detailed in Annex 2 of the Great Lakes Water Quality Agreement. The core of the document should focus on evidence that demonstrates delisting criteria have been met. The report should include a Four Agencies commitment for environmental monitoring to ensure environmental quality is being maintained.

Appendix 1

Four Agency Letter of Commitment

LETTER OF COMMITMENT

A FOUR AGENCY FRAMEWORK OF ROLES AND RESPONSIBILITIES FOR THE IMPLEMENTATION OF THE DETROIT RIVER, ST. CLAIR RIVER AND ST. MARYS RIVER SHARED REMEDIAL ACTION PLANS

1 - WHEREAS the governments of Canada and the United States entered into the Great Lakes Water Quality Agreements of 1972 and 1978 (herein referred to as the GLWQA) and reaffirmed their determination to restore and enhance water quality in the Great Lakes System with the signing of amendments as proclaimed in the 1987 Protocol to the GLWQA which, among other things, commits Canada and the United States, in cooperation with other jurisdictions, to undertake the development and implementation of Remedial Action Plans (RAPs) for Areas of Concern (AOCs);

2 - AND WHEREAS in accordance with Part 1 of the Canada Water Act, Canada and Ontario entered into an Agreement Respecting Great Lakes Water Quality in 1971 and renewed in 1976, 1982, 1986 and 1994 in order to implement the GLWQA and for which specific targets were agreed to for Canadian and shared RAPs;

3 - AND WHEREAS the United States Federal government and the State of Michigan have defined roles for the development and implementation of RAPs under the 1972 Clean Water Act, as amended by the Great Lakes Critical Programs Act of 1990, in support of the goals agreed to under the GLWQA;

4 - AND WHEREAS the State of Michigan and the Province of Ontario, under a 1985 Letter of Intent, committed to leadership roles for the development but not the implementation of RAPs for three of the binational rivers: the Detroit River, the St. Clair River, and the St. Marys River (hereinafter referred to as the shared AOCs);

5 - AND WHEREAS Environment Canada, the Ontario Ministry of Environment, the United States Environmental Protection Agency, and the Michigan Department of Environmental Quality (herein referred to as the Four Agencies) are all committed to the restoration of the shared AOCs and to ensuring stakeholder and public involvement;

THEREFORE the Four Agencies, recognizing the mutual benefits of cooperating on matters of binational interest, recognizing that restoration of the boundary waters cannot be achieved independently by any one Agency and recognizing that each of the Four Agencies is accountable to their citizens for continued environmental improvement and protection, herein intend to implement the following roles and responsibilities:

1. Administration:

1.1 The Four Agencies recognize that each has responsibilities to support commitments made in the GLWQA as well as responsibilities under its respective regulatory system which each Agency will continue to adhere to.



Ontario

Ministry of the Environment
Ministère de l'Environnement



MICHIGAN
Department of Environmental Quality

1.2 The Four Agencies recognize the need to cooperate to achieve the goals outlined in each shared AOC as well as the need for each Agency to accomplish this through their individual distinctive forms of government, institutional arrangements, and approaches to RAP development and implementation.

1.3 The roles and responsibilities of the Four Agencies defined in this Letter of Commitment will apply to all shared AOCs.

1.4 Canadian Agencies are to have the primary responsibility for the administration of the shared activities for the St. Marys and St. Clair RAPs, and the U.S. Agencies are to have the primary responsibility for the administration of the shared activities for the Detroit River RAP.

1.5 The Four Agencies intend to identify a contact/liaison for each of the shared AOCs.

1.6 The Four Agencies recognize that part of the shared accountability is to promote RAP implementation and to persuade other implementors to undertake remedial work within the appropriate jurisdiction.

1.7 The Four Agencies are committed to facilitating development of implementation mechanisms for the shared AOCs with local stakeholders and the public. It is recognized that the Four Agencies may contribute funds or other resources, separately or within partnerships, in support of these mechanisms and that these implementation mechanisms may be different for each shared AOC.

2. Binational Delisting:

2.1 The Four Agencies have responsibility to coordinate continued development and review of measurable and achievable delisting criteria and will ensure the process used to develop these criteria involves the public and stakeholders.

2.2 The Four Agencies intend to develop a process for delisting shared AOCs recognizing differences in each of the AOCs in implementation of this process.

2.3 The Four Agencies recognize the need to coordinate and facilitate monitoring and surveillance efforts to track progress towards delisting.

3. Public Involvement and Outreach:

3.1 The Four Agencies have collective responsibility to ensure public and stakeholder involvement is an integral part of the RAP process.

3.2 The Four Agencies are committed to taking leadership for celebration of implementation successes, including formal recognition of the contribution towards implementation by volunteers or specific implementors.

4. Progress Reporting:

4.1 The Four Agencies intend to develop one format for reporting progress to both the International Joint Commission and the public biennially. These Progress Reports, developed in conjunction with local stakeholders, are to be submitted jointly by the Four Agencies upon agreement to their contents. The focus of the Progress Reports will be to reflect progress in implementation, update technical information, assess progress towards achieving the delisting criteria, as well as highlighting progress towards achieving priorities defined by previous reports.

5. Leadership:

5.1. The Four Agencies recognize that their leadership will be an important factor in the cleanup of the shared AOCs. Four Agency leadership is to be demonstrated by visibility, by empowering local leadership, by contributing to and facilitating implementation activities, by recognizing successes, by actively pursuing solutions to problems, by helping to define research needs and gaps and by facilitating the transfer of information and methodologies.

5.2 The Four Agencies acknowledge that, as defined in the GLWQA, the Federal Governments have committed to cooperate with State and Provincial Governments in the development and implementation of RAPs.

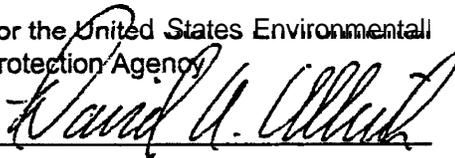
6. Commitment:

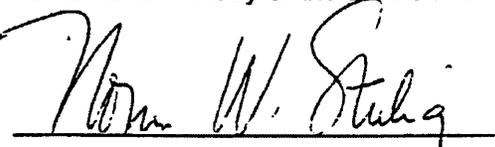
6.1 This Letter of Commitment reflects the firm commitment of the Four Agencies to implement the above-mentioned actions, without giving rise to legal obligations on the governments or on the public.

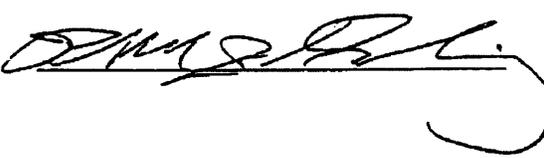
7. Endorsement:

We the undersigned hereby accept the terms of this Letter of Commitment, signed at Windsor, Ontario, Canada this 17th day of April 1998:

For Environment Canada


For the United States Environmental
Protection Agency


For Ontario Ministry of the Environment


For the Michigan Department of
Environmental Quality


Appendix 2

Working Group Contacts

The following are the designated members of the Working Group. These individuals will serve as the initial point of contact for the Four Agency Letter of Commitment on the shared Remedial Action Plans (RAPs) and for any questions or comments related to the position papers.

Environment Canada

Rimi Kalinauskas
Restoration Programs Division
Environment Canada, Ontario Region
4905 Dufferin Street
Downsview, Ontario M3H 5T4
(416) 739-5836
rimi.kalinauskas@ec.gc.ca

Ontario Ministry of the Environment

Michael Moroney
Ontario Ministry of the Environment
Sarnia District Office
1094 London Road
Sarnia, Ontario N7S 1P1
(519) 336-4030
moronemi@ene.gov.on.ca

United States Environmental Protection Agency

Allen Melcer
U.S. EPA (WU-16J)
Underground Injection Control Branch
77 W. Jackson Blvd.
Chicago, IL 60604
(312) 886-1498
melcer.allen@epa.gov

Michigan Department of Environmental Quality

Richard Hoblar
Michigan Department of Environmental Quality
Surface Water Quality Division
P.O. Box 30273
Lansing, Michigan 48933
517-335-4173
hoblar@state.mi.us

Appendix 3

Dispute Resolution

Introduction

The Four Agencies will do their utmost to cooperate to restore the shared Areas of Concern (AOCs). However, disputes between the Agencies or between parties involved in the shared Remedial Action Plans (RAPs) may occur. In order to ensure that disputes are settled rapidly, consistently, and in the fairest manner possible, the following procedures have been developed. This process is intended to be both simple and flexible.

The dispute resolution process is not intended to replace consensus-based decision making and/or conflict resolution tools at the disposal of local implementation committees including committee procedural process, neutral facilitation, vote by committee, or other tools. The Working Group is available to informally assist RAP participants in resolving disputes. The following formal arbitration process should be invoked only after all attempts to resolve a dispute have been exhausted.

Dispute Resolution Process

The Working Group will be responsible for facilitating resolution of disputes that may arise between RAP participants, including:

1. The federal, provincial, and state governments
2. Ad hoc committees
3. RAP Implementation Groups

These procedures apply only to disputes concerning the scope, content or implementation of the shared RAPs.

Format of a Notice of Dispute

A group initiates the dispute resolution procedures by submitting a formal Notice of Dispute to the Working Group and to the other party(ies) in dispute. The Notice of Dispute should be limited to two pages in length if possible. The format of the Notice of Dispute consists of the following elements:

1. name of the group initiating the dispute resolution process
2. other party(ies) to the dispute
3. nature of the dispute
4. a statement of position
5. brief technical and legal support for the stated position
6. actions taken to resolve the dispute

Dispute Arbitration Procedures

1. The disputing parties shall first make all reasonable attempts at settlement through other means of resolution. The dispute resolution process begins when a written Notice of Dispute is sent by mail, facsimile or e-mail to the Working Group and other parties to the dispute.
2. The Working Group will request all parties to submit a statement of their issues, similar in format to the Notice of Dispute. The parties must submit this information within twenty (20) working days of notification from the Working Group. During this period the parties should continue to engage in further negotiations to resolve the dispute.
3. If the parties to the dispute cannot resolve it informally through discussions, then within fifteen (15) working days after the completion of step #2 the Working Group will convene and render a decision with management concurrence.

The decision reached by the Working Group and approved by the Four Agency Management Committee will be one of the following:

- a. a resolution to the dispute
- b. an assignment of an outside expert to further mediate the dispute
- c. a request for more information or time to reach a decision, including a description of the additional information that is needed or a deadline for delivering the decision
- d. an elevation of the dispute to the Four Agency Management Committee
- e. remand to the parties to resolve

4. All draft dispute resolutions proposed by the Working Group shall be sent to the Four Agency Management Committee for concurrence. If the Four Agency Management Committee does not concur with the proposed resolution, the Working Group will revise the resolution in accordance with their suggestions.

Invocation of the dispute resolution procedures outlined above shall not operate to the prejudice of any party. Any party will remain free to challenge federal, provincial or state action as allowed under law.

Sample Notice of Dispute

NOTICE OF DISPUTE

Date:

Initiating Party:

Other Parties to the Dispute: List any party in opposition to the position advocated by the initiating party.

Background: Provide information on the technical and/or programmatic issue that is under dispute, including information on the nature and causes of the dispute.

Statement of Position: A brief summation of the position advocated by the initiating party.

Justification: A brief statement of why the position advocated is correct.

Action Taken: Steps taken to date to resolve the dispute. Such actions can include the following examples:

1. Discussions with the binational steering committee
2. Vote by the steering committee and all subcommittees
3. Neutral facilitation
4. Discussion with counterpart groups from the other binational RAPs

Appendix 4

Local Remedial Action Plan Implementation Structures

Detroit River Area of Concern - United States

Detroit River Area of Concern - Canada

St. Clair River Area Of Concern

St. Marys River Area of Concern - An implementation structure for the St. Marys River Area of Concern is under development

The Detroit River Canadian Cleanup Committee

A major success for the region's environment in 1998 was the establishment of the Detroit River Canadian Cleanup Committee. The community based partnership of industry, government, academic, environmental and community organizations came together to work collectively in helping to heal the Detroit River.

In meeting the spirit of the Canada-U.S. Great Lakes Water Quality Agreement, the purpose of the Committee is to cleanup, enhance and sustain the ecosystem of the Detroit River and its tributary watersheds. The Detroit River Canadian Cleanup initiative builds on the Remedial Action Plan process which was active in the Detroit River Area of Concern from 1984 to 1996. The initiative was restarted to ensure that the Detroit River continues to contribute to a healthy environment, economy and community in the region. The initiative aims to improve the following aspects of the Detroit River ecosystem that are currently impaired at an unacceptable level:

- restrictions on fish and wildlife consumption
- tainting of fish and wildlife flavor
- degradation of fish and wildlife populations
- fish tumors or other deformities
- bird or animal deformities or reproductive problems
- degradation of benthos
- restriction on dredging activities
- restrictions on drinking water taste and odor
- beach closings
- degradation of aesthetics
- loss of fish and wildlife habitat
- exceedance of water quality standards/objectives

Roles and Responsibilities of the Detroit River Cleanup Committee

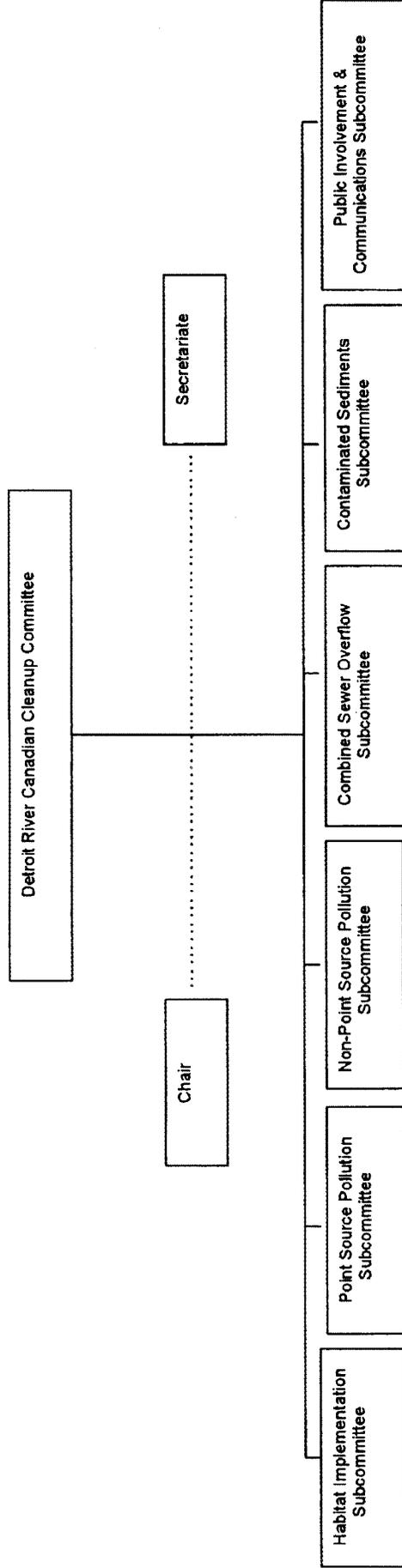
- coordinating Canadian cleanup and enhancement activities
- promoting cleanup action
- promoting partnerships
- developing multi-year plans and budgets that are project and program driven
- reporting regularly on progress to the community and agencies
- establishing criteria and time lines to measure progress

- developing an overall communication plan
- encouraging individual actions (Friends of Watersheds, Turkey Creek, Little River, Canard River, Detroit River)
- identifying technical issues requiring resolutions
- coordinating and consulting on binational programs with U.S. Counterparts
- providing advice on binational issues such as de-listing criteria, outreach activities
- identifying and actively pursuing funding sources
- answering to accountability mechanisms

Detroit River Canadian Cleanup Committee Partners

Canadian Salt Company Limited
 Citizens Environment Alliance
 City of Windsor
 Environment Canada
 Essex County Federation of Agriculture
 Essex County Field Naturalists
 Essex Region Conservation Authority
 Ford of Canada
 General Chemical
 Little River Enhancement Group
 Ontario Ministry of the Environment
 Chair of each Subcommittee
 Project Green
 Town of Amherstburg
 Town of LaSalle
 University of Windsor
 Windsor Chamber of Commerce
 Windsor & District Labour Council
 Windsor Environmental Advisory Council
 Windsor Heavy Construction Association

DETROIT RIVER CANADIAN CLEANUP COMMITTEE ORGANIZATIONAL CHART



Note: The CSO, Contaminated Sediments, NPS and Point Source Subcommittees meet together and essentially function as one Technical Subcommittee.

St. Clair River Area of Concern Local Remedial Action Plan Implementation Structure

The overall strategy for implementation of the St. Clair River Remedial Action Plan (RAP) is to have recommended actions carried out directly by agencies, facilities, other organizations involved in development of the RAP and/or committed to specific actions, and the general public. To do this, coordinating and accountability bodies have been established.

Two working committees have been set up: (1) a RAP Implementation Committee; and (2) a Public Accountability Committee. The two committees operate independently of each other to ensure accountability. Current members of the Binational Public Advisory Council (BPAC) have the flexibility to join either of the two implementation bodies or their subcommittees, or leave the formal process and work on RAP implementation directly through their own organizations. The RAP participants determined through consensus that the former RAP team would become by default, the RAP Implementation Committee and the BPAC would become the Binational Public Accountability Committee.

1. The RAP Implementation Committee (RIC):

- coordinates implementation activities
- updates problem definitions and restoration of impaired uses
- initiates and responds to monitoring and research results/activities
- undertakes data assessment and makes remedial decisions/recommendations
- tracks progress and schedules relating to remedial actions
- undertakes educational activities
- produces short biennial reports, including update of problems, progress of remedial actions, further recommendations, progress towards goals and objectives
- reviews and tracks agency programs, activities, regulations, and lobby, accordingly
- coordinates activities with all parties responsible for remediation, agencies and other stakeholders
- provides meeting minutes, data, updates, etc. to the accountability committee regularly and upon request

This committee is small (approximately 12 to 15 members). It consists of representatives of all sectors responsible for implementation of the RAP, such as industrial, municipal, Ontario Ministry of the Environment, Ontario Ministry of Natural Resources, and Michigan Department of Environmental Quality representatives. A representative of the Friends of the St. Clair River is on the Implementation Committee to ensure coordination with their educational projects.

The RIC has set up ad hoc working groups, as necessary, to carry out specific functions, for example, to develop a contaminated sediments workplan. Membership on the subcommittees is based on specific interests and expertise and is open to individuals beyond those already sitting on the RIC.

2. The RAP Public Accountability Committee:

- audits the implementation of the RAP
- evaluates progress towards goals, objectives and delisting
- reviews the environmental monitoring results
- provides advice on priorities and directions to the RIC and its subcommittees
- issues an annual report to the public which assesses progress on the RAP

This committee includes representatives from each of the sectors and a representative from the First Nations. The people sitting on the Public Accountability Committee do not sit on the RAP Implementation Committee in order to fulfil the auditing role without a conflict of interest.

Regular meetings of this committee are relatively infrequent. Comments are supplied to the RAP Implementation Committee twice yearly. The RAP Accountability Committee also issues an annual audit directly to the public. Committee members receive the minutes and correspondence relating to the other committees on a regular basis. Special meetings of this committee are called at the discretion of some minimum number of members if any issues of concern arise.