



International Joint Commission
Commission mixte internationale
Great Lakes Water Quality Board

Date: July 21, 2006
To: IJC Commissioners
From: Pradeep Kharé, Canadian WQB Co-chair
Gary Gulezian, U.S. Interim WQB Co-chair
Subject: Water Quality Board Advice on Agreement Review

The Great Lakes Water Quality Board (WQB) respectfully offers its advice on Agreement review for consideration by the Commission. This advice is being delivered now to assist the International Joint Commission as it develops its own advice on the Agreement review to the Parties. This advice is based on discussions at WQB meetings during the 2003-2005 and the current 2005-2007 work plan cycles, contract reports prepared on the Board's behalf, and various workshops and consultations. Specifically, the Board held a retreat as part of its November 2005 meeting to discuss the upcoming Agreement review and the WQB's role in advising the Commission. These issues were revisited at the Board's June 20, 2006 meeting, and the Board is now able to offer the following advice and recommendations:

Board restructuring: The WQB at its November 2005 meeting concluded that the WQB Terms of Reference in the Agreement require updating. In the 1972 and 1978 Agreements, the WQB was identified as the entity for facilitating Parties' implementation of the Agreement. Following the revision by Protocol in 1987, the Parties created their own Binational Executive Committee (BEC) to coordinate implementation, and among other things, developed the State of the Lakes Ecosystem Conference (SOLEC) and the Binational Toxics Strategy (BTS). In the meantime, the WQB shifted from programs implementation to policy advice, such as the white paper on invasive species, the review of the BTS, and the development of principles for Agreement review. The WQB's Terms of Reference are in large part now redundant with BEC and the Board concluded that it should retain its name "Great Lakes Water Quality Board" and role of principle advisor to the Commission but revise its mandate to develop policy-level advice to the Commission not undertaken in any other forum.

At its June, 2006 meeting, the WQB revisited this issue especially in light of the recommendation in the SAB's summary of its January, 2006 Wingspread Conference for a single Great Lakes Science and Policy Board. The WQB recognizes the continued importance of science as a foundation for Agreement programs and activities, but science is by no means the sole driver of policy. In terms of policy, there is need for binational communication on Great Lakes policy issues and the challenges, obstacles, and

opportunities facing governments at all levels and their respective roles and responsibilities in Agreement implementation. Membership on a new Great Lakes Water Quality Board also should be expanded beyond the current WQB to include more municipal government representation and new members from regional governments, tribes, and First Nations. In addition, a single, combined science and policy board would be very large and likely too cumbersome to be truly effective in developing advice to the Commission. The Board envisions Terms of Reference for the two boards prescribed in the Agreement to include provisions for the two boards conducting joint activities and holding joint meetings from time to time, where their different perspectives, background and expertise will be complementary and mutually reinforcing in developing advice to the Commission on specific issues.

Therefore, the WQB recommends separate and complementary Great Lakes Science Advisory and Great Lakes Water Quality Boards with new Terms of Reference for both boards prescribed in the Agreement and supported by the Great Lakes Regional Office.

The WQB recognizes that the Council of Great Lakes Research Managers is not mentioned in the Agreement even though the Council was established prior to the Agreement revision by Protocol in 1987. From time to time, there have been discussions about redundancies between the Council and the SAB. Moreover, the Council is working on implementation issues, such as a research coordination strategy and science vessel coordination that the WQB views as the Parties' responsibilities. With due respect for our colleagues on the Council and its Regional Office support staff, the WQB believes it would be more efficient to combine SAB and Council functions.

Therefore, the WQB recommends that the work of the Council of Great Lakes Research Managers be included in the revised Terms of Reference for the Science Advisory Board.

The WQB also discussed the role of the public in the Agreement. As noted in the IJC's recent report on public consultation concerning the Agreement review, there is a large and diverse public that is vitally interested and concerned about the health of the Great Lakes basin ecosystem. A Great Lakes constituency in support of Agreement goals is essential for garnering the political will for Agreement implementation. During the past several decades at IJC biennial meetings, public representatives have requested a defined role in the Agreement and "a seat at the table." The WQB further notes that the public advisory committees for RAPs and LaMPs have provided useful functions. Consequently, it is timely and important that a Public Advisory Board be formed under the auspices of the Agreement.

Therefore, the WQB recommends the establishment of a Public Advisory Board with Terms of Reference set forth in the Agreement and supported by the Great Lakes Regional Office.

Scope of the Agreement: The WQB discussed the scope of the Agreement and offers the following observations for the Commission's consideration:

The WQB is cognizant of long-standing dialogue in the at-large Great Lakes community whether, on one hand, to restrict the Agreement to its current emphasis on chemical integrity (nutrients and toxic substances) or, on the other, to broaden the Agreement to more thoroughly address biological integrity (e.g., invasive species and biodiversity) and physical integrity (e.g., habitat restoration and adaptation to climate change). Some even go farther and recommend that "water" be taken out of the Agreement title so that it becomes a "Great Lakes Ecosystem Agreement", encompassing environmental, socio-economic issues and sustainability issues. The WQB believes that the integrity phrase in the Agreement purpose is rather ambiguous. It either needs better definition or the purpose needs to be more explicitly focused on the goals of achieving sustainable uses and ecosystem health. In order to work towards these goals, it is appropriate for the Agreement to remain focused on water quality while reaffirming that water quality must be addressed using an ecosystem approach, encompassing the watersheds of the Great Lakes basin where most of the water quality problems in the Great Lakes originate. The purpose should reaffirm addressing chemicals while expanding to include biological and physical issues as noted above. The WQB also discussed whether the Agreement should encompass the St. Lawrence River downstream of the international boundary. The Board concluded that the Agreement should remain focused on the Great Lakes but involve collaboration and coordination with, for example, the Canada-Québec Agreement.

Therefore, the WQB recommends the purpose of the Agreement explicitly state the goals of achieving sustainable uses and ecosystem health, and that the scope of the Agreement remain on water quality while broadly encompassing an ecosystem approach to chemical, physical, and biological issues in the basin that affect Great Lakes water quality.

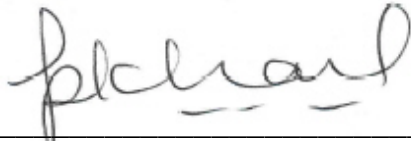
Role of the Commission: The WQB further discussed the role of the Commission in the Agreement and offers the following observations and suggestions:

- Identify Emerging Issues- Governments face challenges in addressing emerging issues. The Commission has performed the function of identifying emerging issues well in the past and it should continue to play this role. In addition to an alerting function on emerging issues, it would be helpful to governments if the Commission made recommendations and raised expectations on how these emerging issues might best be dealt with.
- Assess Agreement Progress- The assessment-of-progress role takes on several dimensions. On one hand, assessment can focus on criticism about lack of progress on Agreement implementation. On the other hand, the Commission through evaluation of data, information or reports supplied by Agreement cooperators can play a nurturing role by pointing out opportunities for binational harmonization and improvements in cooperation, collaboration and coordination. The Board encourages balance in the Commission's communications, including

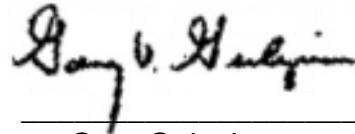
highlighting areas where progress has been achieved. This would be useful in encouraging and sustaining the commitment of Agreement cooperators who are crucial to making progress. Another aspect of assessing progress (public consultations) is discussed below.

- Conduct Public Consultations- The Commission has a long history of excellence in taking “the pulse of the people” and obtaining input on issues of importance to the people of the Great Lakes basin. It would be very valuable to have the Commission, upon receipt of governments’ reports on Agreement progress, conduct consultations with the public around the Great Lakes basin and convey feedback on public opinions on Agreement progress to governments. In addition, the Commission can help gain public support for the Agreement and maintain broad awareness of its goals, objectives and achievements. Public awareness often results political action; therefore, the WQB envisions the IJC’s role to extend beyond raising awareness to generating public efforts towards Agreement goals.
- Assist in Agreement Planning and Implementation- Most Agreement activities must be carried out through domestic legislation and programs. The Commission can provide a value-added role in promoting and communicating a binational perspective on Agreement planning and implementation. There is need to develop stronger binational linkages between setting lakewide goals and objectives, indicators of performance, monitoring, assessment and reporting. Rather than an adversarial role like the Commission for Environmental Cooperation (CEC) and the North American Free Trade Agreement (NAFTA)-type “petitions”, the Commission could exercise its facilitation role in assisting to achieve binational harmonization of programs and activities. For example, through the Board’s work on LaMPs and watershed approaches, such binational harmonization might best be facilitated by IJC using LaMPs as the main Agreement implementation mechanism, thereby linking watershed planning and actions, RAPs, and LaMPs for improved accountability and adaptive management. The Board would like to see the IJC seek a reference from the Parties in order that the Commission has the necessary human and financial resources to carry out this function. Specifically, the IJC by way of a reference could assist the Parties in setting binational water quality objectives lake-by-lake under the LaMPs, establishing indicators of change and progress, and providing work-planning coordination and periodic review in order to assist the Parties and local implementers in linking RAPs and watershed-level targets and local activities with lakewide objectives.
- Facilitate Collaboration Among Great Lakes Stakeholders: The IJC is best positioned to be the locus for binational, crosscutting issues that affect the Great Lakes basin ecosystem and extend beyond the purview of the Agreement. In its discussions, the WQB used the botulism issue in eastern Lake Erie as an example. There is a clear role for the Agreement with botulism causing water quality impairment, but this is a crosscutting issue necessitating an ecosystem approach and broader collaboration with fisheries, wildlife and human health agencies and programs. Convening meetings and arranging for consultations might involve

tribes and First Nations, the Great Lakes Fishery Commission, Great Lakes Commission, management committees for the U.S. Policy Committee, U.S. Regional Collaboration, Canada-Ontario Agreement and Canada-Québec Agreement, as well as stakeholders in the private sector and the public. As above, a reference from the Parties to the IJC would be appropriate so that the Commission has the necessary mandate and resources to fulfill this role.



Pradeep Khare
WQB Canadian Co-Chair



Gary Gulezian
WQB Interim U.S. Co-Chair