
MINUTES OF 156TH MEETING GREAT LAKES WATER QUALITY BOARD

Arlington, VA
April 20, 2004

U.S. Members Present

Lori Boughton	Pennsylvania DEQ, Meadville, PA
George Elmaraghy (for Chris Jones)	Ohio EPA, Columbus, OH
Gerry Mikol	New York DEC, Albany, NY
Thomas Skinner (Co-Chair)	USEPA, Chicago, IL
Walley Turner (for B. Knight)	USDA, Washington, D.C.
David Ulrich	Great Lakes Cities Initiative, Chicago, IL

Canadian Members Present

John Mills (Co-Chair)	Environment Canada, Downsview, ON
Jean Painchaud	Quebec MENV, Quebec City, PQ
Jim Smith	Ontario MOE, Toronto, ON
Peter Thompson	DFO, Sarnia, ON
Joel Wiener	Health Canada, Toronto, ON

Observers Present

Roy Angelow	Environment Canada, Downsview, ON
Marty Bratzel	International Joint Commission, Windsor, ON
Gail Krantzberg	International Joint Commission, Windsor, ON
Ann McKenzie	International Joint Commission, Ottawa, ON

Secretary

John Gannon	International Joint Commission, Windsor, ON
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1.0 **Welcome and Introductions**

Tom Skinner called the meeting to order at 10:20 a.m. and self-introductions were made. Jim Smith was welcomed to the Board as new member representing the Ontario Ministry of the Environment.

2.0 **Review and Approval of Agenda**

The agenda was approved as presented.

3.0 **Review of Minutes and Action Items of the 155th Meeting**

The minutes were approved as written. Gannon summarized the action items and noted that review of draft principles on WQB advice on Agreement review, the draft IJC 12th Biennial Report, and WQB actions related to Annex 2 of the Agreement are continued as agenda items for the 156th meeting.

4.0 **Advice on Review of the Great Lakes Water Quality Agreement**

4.1

Principles on Agreement Review

A thorough and wide-ranging discussion was held on the 2nd draft of the document, "Principles for Review of Great Lakes Water Quality Agreement (GLWQA)." It was agreed that organizing the document around two major themes of "operation and effectiveness" and "comprehensive" should be retained.

Introductory paragraph

A lengthy discussion ensued on what issues should be added to the introduction. It was decided to keep the introduction short but many of the issues discussed should be included in the transmittal memo from the Board to the Commission (see below). It was further agreed to clarify in the introductory paragraph that the WQB recommends adherence to the principles in Agreement review to the IJC, not the Parties directly.

Operation and Effectiveness

- **Focus**

It was agreed to add a "bullet" upfront on focus. The focus on the review should be on the Agreement and specifically on the endpoints (i.e. the overall goal of achieving biological, chemical, and physical integrity of the Great Lakes Basin Ecosystem, the general and specific objectives, and other specified targets and endpoints). Does the Agreement and the endpoints contained therein reflect current realities and future challenges in the Great Lakes Basin Ecosystem? Are they still relevant?

- **Inclusive**

It was noted that the text for this bullet and "open and transparent" were reversed. It was also noted that "inclusive" speaks of engagement. Is the Agreement responsive to

the needs of the people of the Great Lakes basin?

- **Open and Transparent**

To develop a sense of trust, it was agreed that all aspects of the review should be open and part of the public record.

- **Timely**

There was discussion that the Agreement review should be timely both in the sense of starting early after issuance of the IJC 12th Biennial Report and finishing in a reasonable time frame. There needs to be a sense of closure to avoid stakeholder fatigue and burn-out during the course of the review. It was agreed to recommend an 18-month time frame.

- **Binational**

No additional comments.

- **Impartial and Unbiased**

It was agreed to delete "unbiased" from this principle since "impartial" captures the letter and intent of the accompanying text.

Comprehensive

- **Purpose**

It was agreed to delete the second sentence as it related more to substance of the review rather than process.

- **Be open to a full range of possible outcomes**

It was agreed to delete this "bullet" since it also relates more to the Agreement review rather than process leading up to the review.

- **Be retrospective and forward-looking**

In the context of the Board's intent to focus on current realities and future opportunities in the review, it was agreed to delete "be retrospective" and emphasize the "forward-looking" nature of the review.

- **Ownership**

It was agreed that the text for this "bullet" referred mainly to "governance," so "ownership" was deleted and replaced with "consider governance."

- **Accountability**

"Maximize accountability" was changed to "consider accountability."

Transmittal Memo

Dr. Krantzberg clarified the timing for delivery of the principles document from the Board to the Commission. She said that it is the intent of the Commission to send a letter to the Parties' Binational Executive Committee (BEC) following the IJC executive meeting in mid-June on IJC advice to the Parties on Agreement review. Consequently, it was decided to complete a redraft of the principles document based on the Board's input at this meeting along with a draft transmittal memo within two weeks for Board review.

Action:

Redraft principles document and transmittal memo - Gannon

Review draft transmittal memo - All

It was discussed that the cover memo is just as important as the principles document in conveying the Board's advice on Agreement review to the Commission. Elements discussed for inclusion in the cover memo were:

- There is a wide range of options for the Parties to take in undertaking the Agreement review from rather cursory to more comprehensive. The memo should encourage comprehensive review, recognizing a groundswell of public interest in the review and also recognizing that scientific issues (e.g. human health and invasive species) and governance (e.g. increasing role of large city and regional governments) has changed since 1987. Therefore, it is timely to review the Agreement comprehensively. Referral should be made to the Commission's own expression of interest in report review in its Declaration at the 2003 Biennial Meeting: http://www.ijc.org/rel/comm/030920-declaration_e.htm
- The Board encourages the Commission to take a leadership role in holding public consultations to obtain stakeholder input on Agreement review.
- The Agreement review is an opportunity for renewal and revitalization. There are perceptions that the Agreement is no longer a strong driving force for action within the Great Lakes community. Ownership may be declining. Is the Agreement a victim of declining governmental financial resources, or are there other reasons for the perceived decline in implementation? Using the review mechanism, how can the Agreement become a tool to better meet the public's needs for living within the Great Lakes Basin Ecosystem? How can it become a more effective driving force for achieving goals and endpoints? The review should be inspirational and forward-looking and at the same time should be realistic and focus on doable actions and achievable endpoints in a climate of scarce resources.
- In summary, the memo needs to be the "sales pitch" for the Agreement review, using the principles document as guidance.
- The memo should also inform the Commission that the principles document is

Phase I of the Board's role in providing advice on Agreement review. The Board intends, in Phase II, to address one or two issues of substance related to the Agreement review. These issues have not been chosen at this time, and will be the topic of a separate communication to the Commission.

4.2 **Pollution Probe – Phase III Report.**

The Secretary distributed copies of the Pollution Probe – Phase III contractual report on advice on review of the Agreement. It was noted that the Phase III (last of the 3-phase contract) on governance was received just prior to the Board meeting. The Board was reminded that the Great Lakes Regional Office initiated these reports as think tank pieces on Agreement review for consideration in developing the Board's advice on Agreement review. Although the Phase II report contained information on Agreement substance that is more pertinent once the actual Agreement review is initiated, the Phase I and Phase III reports contain information pertinent to the process of developing advice on Agreement review. It was also noted that the Binational Executive Committee (BEC) has established its Scoping Committee on Agreement Review, and some of the information in the Phase I and Phase III reports may be pertinent to their deliberations and plans to report to the full BEC Committee during its July meeting. It was stated that the WQB did not ask for the reports, but needs to decide what to do with them.

Action: WQB members review the Phase I and Phase III reports within two weeks and convey to the Secretary any information from the reports that is recommended for inclusion in the cover memo or principles document on advice to the Commission on Agreement Review.

Action: WQB members review Phase I, II, and III reports prior to the next WQB meeting, and be prepared to discuss at the next meeting on further use of the reports by the Board and their distribution.

5.0

Review the Draft 12th Biennial Report

Dr. Krantzberg explained the overall theme of the report and the format. The report is intended to review Agreement progress on specific aspects of Great Lakes integrity that are based largely on the activities of the Boards and Council during the 2001-2003 Work Plan cycle. The main chapters on physical, chemical, biological, and ecosystem (Lake Erie) integrity include recommendations. Shorter chapters are about emerging issues and other topics with observations. As a departure from previous reports, the Boards and Council are being included as peer reviewers of the draft 12th Biennial report in an attempt to improve the usefulness of the report to governments and the larger Great Lakes community. She encouraged the Board to focus especially on the recommendations . . . are they helpful to governments? are they achievable? are the recommendations supported by the body of the text?

General comments on the overall draft report included:

- Needs improved consistency in format from chapter to chapter
- Needs improved level of detail from chapter to chapter
- It is unclear what the IJC wants for the report. Press coverage? Governmental action?

- The target audience is unclear because some of the chapters are technical while others seem to be written for a more general audience. It was recognized that the report is intended for a wider audience than government policymakers and resource managers, so attempts should be made to make the entire report consistently user friendly. The April, 2003 AOC report was mentioned as good model for user friendliness.
- It was noted that past biennial reports have not had much impact within the Great Lakes community. It was suggested that IJC contemplate how to better attract public attention and governmental response in the biennial reports.

6.0

Annex 2

Gannon gave brief overview on Annex 2 of the Agreement and Commission's assignment of Annex 2 activities to the Water Quality Board upon dissolving the former Annex 2 Task Force last year. The Water Quality Board is being asked by the Commission to determine what activities and advise the Board may wish to undertake that will assist the Parties on progress in addressing Remedial Action Plans (RAPs) and eventual delisting of specific Areas of Concern (AOCs) and implementation of Lakewide Management Plans (LaMPs) for lakes Superior, Michigan, Erie, and Ontario, and the Lake Huron Initiative.

One of the issues in RAPs is the vagueness of many endpoints for the Beneficial Use Impairments (BUI's). More quantitative, measurable endpoints would be helpful for some of the BUIs for assessment evaluation and assessment of progress in remedial actions and eventual delisting. Lori Boughton provided an overview of Pennsylvania's work in better defining endpoints for the fish tumor BUI in the Erie (PA) AOC. With EPA/GLNPO funding assistance, two expert workshops were held. While better definition of the endpoint for fish tumors and related abnormalities were developed in the workshops, she noted and the information obtained on protocols for scientifically defensible monitoring and assessment was just as important as the endpoints. Although "one size fits all" is not feasible, the monitoring protocols and endpoint developed for the Erie AOC may provide guidance for exception or adaptation in other AOCs. Moreover, the process of involving scientific experts in a workshop setting may be worthwhile in addressing other BUI endpoints that have been particularly troublesome for RAP practitioners.

Gary Gulezian noted that the Agreement, in general, is not very specific beyond chemistry, and this is certainly true for many of the BUIs. He noted that Canada is generally ahead of the U.S. in establishing BUI endpoints through the Canada-Ontario Agreement (COA), whereas it has been a more difficult task reaching agreement with eight (8) Great Lakes.

Gail Krantzberg noted that the 1997 10-year review of all Canadian AOCs was successful in re-energizing AOC/RAP activities. A Canada-Ontario RAP Steering Committee was formed and had input from researchers. Impaired uses were better defined as were the endpoints. Gary Gulezian noted that the U.S. Side is also attempting to provide better definition to some of the BUI endpoints with EPA/GLPNO providing funding to the Great Lakes Commission for assistance.

The question remains, what can and should the Water Quality Board do that would be value-added to Annex 2 activities? There must be ways and means of pooling knowledge and resources binationally. It was recognized that researchers and technical experts are involved in those AOC where there has been the most progress in implementing RAPs. The former Annex 2 Task Force was considering developing an expert directory for the BUIs and that

is still worthy of WQB consideration. The WQB could also recommend a more level playing field of consistency in issues, including endpoints, linkages with indicator programs such as SOLEC, areas of recovery designation, and reporting progress. The Water Quality Board, in anticipation of the Agreement review, may also want to address why Annex 2 activities have stalled out. Financial issues are a real concern because of the costs for addressing contaminated sediment removal/remediation and municipal infra-structure upgrades. Are there broader issues in addition to money that are involved in Annex 2 activities losing momentum?

Gerry Mikol noted in the New York AOCs that the established BUI endpoints is a relatively short list of issues that were considered doable. A lot of good work has been conducted in most of the New York AOCs (habitat restoration for example), but the prospect of addressing all 14 BUIs is slim because of the estimated \$5 Billion cost for contaminated sediment removal.

Action: It was resolved to form a small subgroup to work on defining the role the WQB should play in addressing Annex 2 and in particular, recommending a process for the Board in addressing a subset of BUI endpoints. Boughton (Chair), Gulezian, Mather, Thompson, Ullrich, with assistance from IJC staffers, Montgomery, Gannon.

7.0 Other Business

John Mills, on behalf of the Water Quality Board, recognized Marty Bratzel upon the announcement of his retirement for his many years of dedication and service to the Great Lakes, the Great Lakes Water Quality Agreement, and to the Water Quality Board in particular. Marty has been in the IJC Great Lakes Regional Office since it was formed in 1973. He served as the Water Quality Board's Secretary on several occasions and worked on behalf of many of the Board's task forces, committees, and reports.

8.0 Next Meeting

Discussion about the Board's next meeting focused on consultation and visit to a Canadian Area of Concern. It was noted that previous Board visitations and consultations at specific AOC locations and interactions with RAP practitioners have been informative. It was also stated that many of the Canadian AOCs are isolated, making travel logistics expensive and difficult for Board members. A visit to the Bay of Quinte AOC was discussed but more appropriate for 2005 when the IJC Biennial Meeting is scheduled there. The Toronto AOC was also mentioned, but the WQB visited Toronto in 2000. It was resolved that it would be most instructive to have the Board meet with several Canadian RAP coordinators organized around the theme of, "What makes local implementation work?" Instead of an AOC field trip, a round table discussion between Canadian RAP coordinators and Board members was agreed upon in Toronto, "piggy backed" on the next Great Lakes Binational Toxics Strategy meeting in Toronto:

Thursday, June 17, 2004, 1:00 – 5:00 p.m. (WQB Business Meeting)

Friday, June 18, 2004, 8:00 a.m. – 12:00 noon (Canadian AOC/RAP Consultations)

Location to be announced

9.0

Adjournment

Tom Skinner adjourned the meeting at 3:45 p.m.