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Report to Congressional Requesters

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GREAT LAKES

EPA Needs to Define Organizational Responsibilities Better for Effective Oversight and Cleanup of Contaminated Areas

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List of Abbreviations

CEM	Costal Environmental Management
EPA	Environmental Protection Agency
GLNPO	Great Lakes National Program Office
IJC	International Joint Commission
LaMPs	Lakewide Management Plans
OIG	Office of Inspector General
RAPs	Remedial Action Plans
SOLEC	State of the Lakes Ecosystem Conferences

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United States General Accounting Office
Washington, DC 20548

May 17, 2002

Congressional Requesters

Millions of people in the United States and Canada depend on the Great Lakes as a source for drinking water, recreation, and economic livelihood. Over time industrial, agricultural, and residential development on lands adjacent to the lakes have seriously degraded the lakes' water quality, posing threats to human health and the environment, and forcing restrictions on activities, such as swimming and fish consumption.

In an effort to better protect the Great Lakes, and to address common water quality problems, the governments of the United States and Canada entered into the bilateral Great Lakes Water Quality Agreement in 1972. In 1978 the parties reached a new agreement, which, as amended in 1983 and 1987, expanded the scope of the activities by prescribing prevention and cleanup measures intended to improve the lakes' conditions. Specifically, the 1987 amendment committed the two countries to cooperate with state and provincial governments to ensure, among other things, the development and implementation of remedial action plans (RAPs) for designated areas of concern (areas) located in the Great Lakes Basin—areas contaminated for example with toxic substances known to cause deformities in fish or animals. The countries have agreed to use RAPs for managing the cleanup process and restoring contaminated areas to their beneficial use, such as swimming or fishing. The countries have identified 43 contaminated areas: 26 located entirely within the United States, 12 in Canada, and 5 shared by both. The agreement obligates the International Joint Commission (IJC)—an international body charged with assisting the implementation of the agreement—to review the RAPs and provide comments on them.

The Clean Water Act charges the U.S. Environmental Protection Agency (EPA) with leading the effort to meet the goals of the Great Lakes Water Quality Agreement, which include RAP development and implementation. The purpose of the section of the act addressing the Great Lakes is to achieve the goals of the agreement through improved organization and definition of the agency's mission, funding of state grants for pollution control in the Great Lakes area, and improved accountability for implementation of the agreement. The act also establishes the Great Lakes National Program Office (GLNPO) within EPA, charging it with, among other things, cooperating with federal, state, tribal, and international agencies to develop and implement specific action plans to carry out the

United States' responsibilities under the various agreements. GLNPO is also charged with coordinating the actions of the agency, both in headquarters and in the regions, aimed at improving Great Lakes' water quality. Specifically, under the act the administrator is to ensure that GLNPO enters into agreements with the various organizational elements within EPA specifically delineating duties and responsibilities of each element within the agency and the time and resources needed to carry out and complete them.

According to EPA, the RAP process provides a forum for individuals, organizations, and local governments to become actively involved in the restoration of the Great Lakes ecosystems. As such, EPA provides states certain flexibility in developing RAPs. In some areas, states have borne the responsibility for developing RAPs. In other areas, local citizens formed citizen advisory councils to assume this responsibility. The RAP process consists of three successive stages: (1) defining an area's environmental problem, (2) selecting remedial and regulatory measures to address the problem, and (3) implementing the measures and restoring an area to its beneficial use, such as swimming. As part of the RAP process, the states submit their respective RAPs to the IJC for review and comment. When an area successfully completes all three stages of the RAP process, the area's name is removed from the list of contaminated areas, signifying that the area is restored.

Concerned with continued environmental problems in the lakes, you asked us to (1) determine what progress has been made in developing and implementing RAPs and (2) assess the effectiveness of EPA's efforts to ensure that RAPs are developed and implemented. The methodology that we used to address these issues is presented in appendix I.

Results in Brief

As of April 2002, none of the 26 contaminated areas in the Great Lakes Basin for which the United States is responsible had completed all three stages of the RAP process and been restored to beneficial use. Currently, all of the areas have defined their respective environmental problems (stage 1), but only approximately half of the areas selected remedial and regulatory measures to address these problems (stage 2). The slow progress of cleanup efforts reflects a general departure from the RAP process specified in the agreement. In a few areas, the state or local groups continue to follow the RAP process, although the ultimate remediation of the contaminated areas remains uncertain. In some areas, citizen advisory councils developed alternative cleanup plans that completely abandoned the RAP process. According to state and local

officials, the councils abandoned the process because they lacked the technical expertise or financial resources to implement the RAPs. In other areas, the states or citizen groups assumed responsibility for the RAPs , modifying the process to conform to each area's particular circumstances. Several areas forged ahead to address some of their environmental problems, with successes realized through other federal program activity, such as Superfund, or funding from state or nonprofit sources.

EPA is not effectively fulfilling the nation's responsibility under the Great Lakes Water Quality Agreement of 1978 to ensure that RAPs are developed and implemented in the contaminated areas. Even though EPA has been charged with leading the effort to meet the goals of the agreement, it has not clearly delineated responsibility for oversight of RAPs within the agency, and, citing resource constraints and the need to tend to other Great Lakes priorities, reduced its staff and the amount of funding it allocates to states for the purpose of RAP development and implementation. For example, in 1992, EPA transferred the oversight responsibility for RAPs from GLNPO to the agency's regional offices, which it believed to be more familiar with funding and managing such programs. The regional offices provided initial support and oversight for the RAP process, but then significantly reduced the number of assigned staff and the amount of federally allocated funds devoted to RAP development and implementation. Now, no EPA office claims responsibility for overseeing this effort. Moreover, reductions in staff and funding limited the number of areas that EPA can effectively monitor. According to EPA officials, the agency reduced its support for RAPs under the assumption that states would continue to fund the RAP efforts. Instead, the states followed EPA's lead and reduced their support as well. Subsequently, EPA shifted its attention to other priorities in the Great Lakes Basin that are required under the agreement. We are recommending that the EPA administrator clarify which office within EPA is directly responsible for ensuring the implementation of RAPs and identify the actions, time periods, and resources needed to help EPA fulfill its RAP oversight responsibilities.

Background

Recognizing their mutual interests in the Great Lakes and other boundary waters, the United States and Canada signed the Boundary Waters Treaty in 1909, giving both countries equal rights to use the waterways that cross the international border. Accordingly, the treaty established the International Joint Commission (IJC), comprised of three commissioners from each country, to help the two governments resolve and prevent disputes concerning boundary waters. With increased concern over the

contamination of the Great Lakes, the two countries signed the first international Great Lakes Water Quality Agreement in 1972 to improve the environmental conditions in the lakes. The agreement focused on controlling phosphorous as a principal means of dealing with eutrophication in the lakes. The parties signed a new agreement in 1978 that called for increased control of toxic substances and restoring water quality throughout the Great Lakes Basin. Subsequent amendments were made to the agreement in 1983 and 1987. The 1987 amendments added several annexes that focused on specific environmental concerns, such as contaminated sediment.

The 1978 agreement as amended contains 17 annexes that define in detail the specific programs and activities that the two governments agreed upon and committed to implement. Although most of the annexes specify pollution prevention strategies, Annex 2 calls for the preparation of RAPs to address the restoration and protection of beneficial uses in specific contaminated areas designated as areas of concern and the other open waters of the Great Lakes. Such areas may include areas along the Great Lakes' shoreline and areas that drain into the lakes that states and provinces identified as contaminated areas requiring cleanup. The agreement binds the United States and Canada to cooperate with state and provincial governments to designate such areas of concern, with the IJC reviewing progress by each government in addressing actions to restore water quality in the lakes. The agreement as amended also directs that the public be consulted in the RAP process and that each RAP

- define the environmental problems and the causes of these problems in the areas,
- provide an evaluation of remedial measures,
- select remedial measures,
- provide an implementation schedule,
- identify organizations or individuals responsible for implementation,
- include a process for evaluating remedial implementation and effectiveness, and
- provide a description of monitoring to track effectiveness and confirmation that the areas are restored.

In defining the environmental problems, RAPs determine the applicability of 14 adverse environmental conditions to the area. Such impairments include beach closings, tainting of fish and wildlife flavor, and bird or animal deformities or reproduction problems.

In addition, the Water Quality Act of 1987 amended the Clean Water Act to provide that EPA should take the lead in coordinating with other federal agencies and state and local authorities to meet the goals in the agreement. The act also established GLNPO within EPA to fulfill the United States' responsibilities under the agreement and to coordinate EPA's actions both at headquarters and in the affected regional offices. The Great Lakes Critical Programs Act of 1990 amended the Clean Water Act further defining GLNPO's role and requiring the submission of all RAPs to the office and also requiring each plan be submitted to the IJC for review and comment. The 1990 Act designated states as the primary parties for developing and implementing plans, although ensuring successful completion of the plans remains the responsibility of the United States and EPA under the agreement and the Clean Water Act. When Coastal Environmental Management (CEM) funding first became available in 1992, and because the Water Divisions administered other water program funding, EPA officials made the decision to transfer oversight of the RAP process from GLNPO to the Water Division in EPA Regions II, III, and V, which border the Great Lakes.

For the past several years, we and others have reported on slow progress of the Great Lakes cleanup activities, making particular reference to the fact that neither GLNPO nor any other EPA office had devoted the necessary responsibility, authority, and resources to effectively coordinate and oversee cleanup efforts in the Great Lakes Basin. In 1990, we reported that the development of the RAPs and Lakewide Management Plans (LaMPs)[1] called for in the agreement had fallen far behind schedule and recommended that EPA better coordinate GLNPO and EPA's headquarters offices to improve the process.[2] Likewise, EPA's Office of Inspector General (OIG) reported in 1999, that EPA officials were not as effective as they could be in working with states and local officials on RAPs and recommended that one official coordinate these activities.[3] The IJC, in its most recent biennial report, identified the RAP process as an area needing improvement and reported that the process for preparing RAPs and LaMPs was no longer being followed, in some cases resulting in an ad hoc

[1] LaMPs are management plans for the open waters of each lake to reduce loadings of critical pollutants in order to restore beneficial uses.

[2] See U.S. General Accounting Office, *Water Pollution: Improved Coordination to Clean Up the Great Lakes*, GAO/RCED-90-197 (Washington: D.C.: Sept. 28, 1990).

[3] U.S. Environmental Protection Agency, *EPA's Great Lakes Program* EPA/OIG Rept. 99P00212 (Washington, D.C.: Sept. 1, 1999).

modification of the annex. The IJC also reported that information on RAP implementation is not readily available in a standardized, consolidated format.[4] Overall, the IJC concluded that although some progress had been made in the Great Lakes, the governments had not committed adequate funding or taken decisive actions to restore and protect the lakes. Citing the public's right to know (and in an effort to get the program back on track), the IJC recommended a results-oriented approach, suggesting that the governments of the United States and Canada prepare one consolidated progress report that lists accomplishments, expenditures, what remains to be done, and the amount of funding and time needed to restore the contaminated areas to beneficial use.

Cleanup Progress Has Been Limited in Many Contaminated Areas

Progress in cleaning up the Great Lakes and restoring the contaminated areas to their beneficial uses has fallen behind where the parties hoped it would be. As of April 2002, most of the RAPs for which the United States was responsible were in the second stage of having remedial and regulatory measures selected; none has completed all three stages indicating completion of cleanup. (See table 1.)

[4] International Joint Commission, *Tenth Biennial Report on Great Lakes Water Quality*, (June 29, 2000).

Table 1: Status of Areas of Concern

		Date Reported to IJC		
Area of Concern	**State**	**Stage 1**	**Stage 2**	**Stage 3**
Ashtabula River	OH	1991		
Black River	OH	1994		
Buffalo River	NY	1989	1989	
Clinton River	MI	1988	1995	
Cuyahoga River	OH	1992		
Deer Lake	MI	1987		
Eighteenmile Creek	NY	1997	1997	
Fox River	WI	1988		
Grand Calumet River	IN	1991	1997	
Kalamazoo River	MI		1998	
Lower Menominee River	MI/WI	1991	1996	
Manistique River	MI	1987	1997	
Maumee River	IN/OH	1992		
Milwaukee Estuary	WI	1994		
Muskegon Lake	MI	1987	1994	
Oswego	NY	1990	1991	
Presque Isle Bay	PA	1993		
River Raisin	MI	1987		
Rochester Embayment	NY	1993	1997	
Rouge River	MI	1989	1994	
Saginaw River/Bay	WI	1988		
Sheboygan River	WI	1989		
St. Louis Bay/River	MN/WI	1992	1995	
Torch Lake	MI	1987		
Waukegan Harbor	IL	1993	1995	1999
White Lake	MI	1987	1995	

Source: EPA Great Lakes Ecosystem Report 2000.

No area of concern in the United States has had its designation removed—that is, been delisted—although the Great Lakes Strategy 2002 plan, which was developed by representatives of federal, state, and tribal governments in the Great Lakes area, lists as one of its objectives the removal of 3 areas from the list by 2005, and 10 by 2010.

The RAP process envisioned in the agreement is not being consistently used as a model for cleanup activities occurring at the areas. While cleanup activities have occurred in many areas, such activities have generally resulted from other environmental programs or initiatives. The RAP process has essentially been abandoned for some areas, modified for others, and for a limited number of areas the process is being followed to

address the environmental impairments. According to state officials, a major reason that the RAP process is not being followed is the lack of general funding, including funding from EPA. Whether or not the process is being followed at an area often depends in part on state involvement in the process and whether there is local interest. As a result, implementation of the agreement is uneven across the areas and, in areas where the process has been abandoned, the initial investment in the process may have been largely wasted.

Each of the eight Great Lakes states—Illinois, Indiana, Ohio, Michigan, Minnesota, New York, Pennsylvania, and Wisconsin—has approached the RAP process in a somewhat different manner after EPA reduced its funding, but in general the volume of resources they devoted to the process has diminished in the past 10 years, according to state officials.

- The state of Michigan, which contains 14 areas, completed the first stage of the RAP process—defining the environmental problems—in 1987 and 1988. In the preparation stage, the state funded a group of state coordinators, who spent part or all of their time on RAPs. Today, the coordinators spend only a small fraction of their time on RAPs and serve mainly as an area's informational point of contact. In addition, the state decided that it would no longer follow the three-stage process set forth in the agreement. Responsibility for the Michigan RAP process rests primarily with local groups known as public advisory councils, and while none of these groups have abandoned their work, state officials indicated that two groups are on the verge of quitting and that others had significantly decreased their activities. The officials further stated that, while RAPs may be a catalyst, they are not driving the implementation of the areas' cleanup activities. Instead, officials noted, other federal programs, such as Superfund, and state and nonprofit programs provide funding for cleanup and restoration activities. An organization representing the public advisory councils recently recommended that the state play a more aggressive role in supporting their efforts by providing funding and technical support.
- The state of New York, which has six contaminated areas, employs a part-time coordinator for each area. According to state officials, over the years the overall activity in the RAP process has decreased, but the state retains oversight and commitment to the process. However, the RAP process is not the impetus for cleanup activities at the areas. Instead, other programs, such as EPA's Resource Conservation and Recovery Act, have been used to clean up contaminated areas.
- In Wisconsin, which has five contaminated areas, the work on the RAP process for the areas was stopped after EPA decreased funding for RAP

activities. As with other states, cleanup work continues at the areas through other programs, although the state only completes projects consistent with a RAP when it has the time and funds to do so, according to a state official. The state does not monitor RAP progress, and community groups are no longer actively involved in the process.

- In Ohio, which has four contaminated areas, the RAP process evolved differently in each area. For example, a structured process exists to address the environmental impairments in one area, but the process is less structured in two other areas and significantly modified in another, according to a state official. Community organizations are involved in three of the four areas. The state has also modified the three-stage process specified in the agreement, saying that the RAPs could never be used to cleanup an area because they are not implementation documents, according to the official.
- In Minnesota, Illinois, Pennsylvania, and Indiana, which have one contaminated area each, any work underway in the areas is largely the result of other programmatic activity, such as the removal of contaminated sediment in Waukegan Harbor, Illinois, as part of the Superfund program. There is local involvement in the RAP process in the areas in Illinois, Pennsylvania, and Indiana. In Minnesota, a nonprofit group sponsors environmental projects in the region where the area is located, but it is not directly involved in the RAP process.

EPA and others often present environmental cleanup activities that relate to the goals of the RAP process as evidence that progress is being made at the areas, but these activities often relate to the goals of other programs, such as Superfund. Such reporting makes it difficult to determine what progress is being made in eliminating the impairments identified in the individual RAPs. In this connection, the members of the IJC responsible for reviewing the progress of the areas have reported their frustration in assessing RAP progress because EPA has not provided meaningful information to them.

EPA Is Not Fulfilling the Nation's Responsibility to Ensure the Cleanup of Contaminated Areas

EPA is not effectively fulfilling the nation's responsibilities to ensure that RAPs are developed and implemented in the contaminated areas. Several EPA actions, such as diffusing RAP responsibility within the agency, reducing federal funding and staff support for the RAP process, and shifting the agency's attention to other cleanup priorities in the Great Lakes Basin have all contributed to the uneven progress in RAP development and implementation. For example, in 1992, EPA transferred the responsibility for overseeing the RAP process from GLNPO to its Water Divisions in Regions II, III, and V. GLNPO retained responsibility for

certain RAP-related activities, such as preparing progress reports and funding research that affected the contaminated areas. The Water Divisions provided initial support and oversight for the RAP process, but following several sequential cutbacks in process-related state funding and staff, their capacity to oversee the RAP process was diminished to the point where EPA could no longer ensure the ultimate restoration of the contaminated areas. As support for the RAP process waned, EPA shifted its attention to other environmental problems in the Great Lakes, such as completing plans to address lakewide environmental problems. Although important, these activities did not supplant the need for RAPs to address the contaminated areas.

Oversight Responsibility Within EPA for Contaminated Areas Is Unclear

Responsibility for oversight of the RAP process within EPA has changed over time and today no office claims that responsibility. Amendments to the Clean Water Act in 1987 named EPA as the lead agency and charged GLNPO with coordinating EPA's actions aimed at improving the water quality of the Great Lakes. The act was amended in 1990 to, among other things, require GLNPO to ensure the submission of RAPs for each area of concern. The EPA administrator is responsible under the act for ensuring that GLNPO specifically delineate the duties and responsibilities, the time commitments, and resource requirements with respect to Great Lakes activities when entering into agreements with other organizational elements within EPA. Shortly after the 1990 amendments were enacted, EPA officials transferred oversight of the RAP process from GLNPO to its Water Divisions in Regions II, III, and V, which border the Great Lakes. While this decision was not formally documented, an EPA official familiar with the decision stated that EPA headquarters considered GLNPO's primary focus to be on research and basin-wide activities. Furthermore, the official did not think that, as an office, GLNPO had the organizational mindset or capacity to oversee the RAP process. According to GLNPO officials, EPA believed the Water Divisions were more familiar with funding and managing similar programs. GLNPO, however, continued to track the status of RAPs and provide technical assistance and grant funds for projects associated with RAPs.

In 1995, EPA's Region V Office reorganized and created teams responsible for the Great Lakes including their contaminated areas. These teams are focusing on developing and updating the LaMPs for each lake. The directors for GLNPO and the Region V Water Division share responsibility for the teams. In addition to the CEM funds provided for RAPs by the Water Divisions, GLNPO's base budget has averaged about $14.5 million annually since 1993. During that same period GLNPO awarded about $3.2

million annually to states, tribes, local organizations, and academic institutions to fund Great Lakes activities related to the areas such as sediment research and pollution prevention.

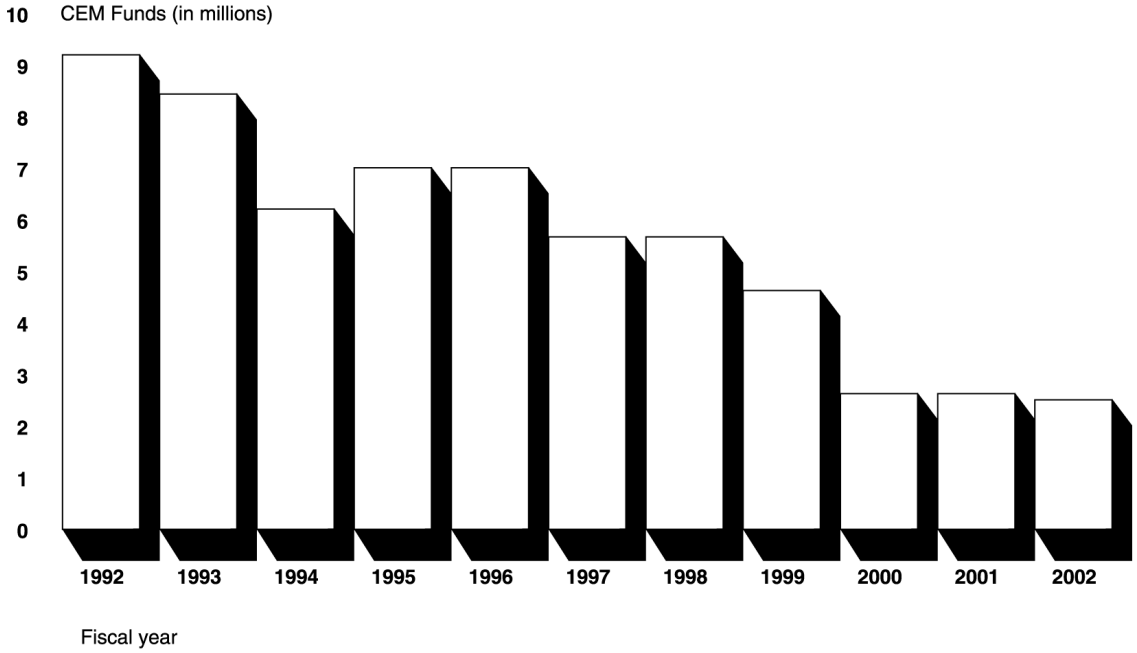
In a September 1999 report on EPA's Great Lakes Program, the EPA OIG recommended that the EPA's Region V administrator clarify the role of GLNPO as it relates to RAPs and LaMPs. The administrator agreed with this recommendation and stated that GLNPO's roles and responsibilities would be addressed during the development and implementation of a Great Lakes strategy. At that time, regional officials expected this strategy to be completed by April 2000. EPA released its Great Lakes strategy on April 2, 2002; however, this strategy did not clarify GLNPO's roles and responsibilities for RAPs, nor did it include provisions for specific funding to carry out the strategy. GLNPO officials stated that they decided not to include this clarification in the strategy because it required more specifics than could be included in the document. Still, as of April 2002, the agency had not clarified GLNPO's role in any other document.

GLNPO officials have stated that state and local governments are primarily responsible for implementation of RAPs through their local pollution control programs, except when federal programs and authorities, such as Superfund, are in the lead for a particular effort. Further, other EPA officials have noted that the financial assistance provided states for developing RAPs was intended only to be seed money and that the states were expected to continue funding the process. State and other EPA officials, including GLNPO officials, maintain that the federal government is ultimately responsible for the RAPs and cleaning up the areas. According to the director of the Water Division in Region V, there needs to be clear delineation of oversight responsibility for RAPs, which are, in the end, a federal responsibility.

EPA Cut Funding and Staffing for Program-Related Activities

Over the past 10 years EPA has taken several steps that have reduced its ability to sustain the RAP process, such as reducing the amounts of RAP-related funding allocated to the states and reducing the number of agency staff assigned to oversee RAP activities. To assist states in preparing RAPs for the contaminated areas, EPA provided funding to the states from the CEM program. States used the funding to hire staff to focus on the planning process and organize community involvement to develop the RAPs. The funding was allocated to the three EPA Regions and then provided to the states. EPA decreased its regional CEM funding from $9.2 million in fiscal year 1992 to $2.5 million in fiscal year 2002. (See figure 1.)

Figure 1: CEM Funding Provided to EPA Regions for RAP and LaMP Activities Has Declined



Source: EPA operating budget plans.

Approximately 75 percent of the CEM funding was provided to Region V in fiscal years 1992 through 2002. The director of the Water Division for EPA Region V stated that when the CEM funding was first available for work on both RAPs and LaMPs, 7 or 8 staff positions were provided for each of the 6 states in the region. The decrease in funding resulted in reducing the staff committed to RAPs in the three states that we visited—Ohio, Michigan, and Wisconsin. For example, in Wisconsin, as the funding for RAPs and other Great Lakes activities was reduced, the state reduced its staff working on RAPs and LaMPs from 9 full-time to one full-time and one part-time position. As a result, the state could no longer provide support for the local RAP committees or updates for the RAPs and stopped doing remedial action work at the contaminated areas, unless it related to some other program, such as Superfund.

EPA also reduced its staffing levels for the RAPs. The agency had funded RAP liaison positions to facilitate and coordinate work on RAPs. In EPA's Region V, which encompasses most of the areas of concern, there were 21 RAP liaisons with at least one assigned to each area in 1999. As of 2001

this staffing had been reduced to two part-time and one full-time liaison. An EPA official responsible for the liaisons stated that work on RAPs was no longer a priority and priorities had shifted to LaMPs. In fiscal year 2002, one person was assigned to work full-time on the RAP for the Detroit River area, but neither Region V nor EPA headquarters had any staff responsible for monitoring RAP progress. GLNPO has provided grant funding to the Great Lakes Commission, a binational agency promoting information sharing among Great Lakes states, to update information on the contaminated areas and the RAPs on GLNPO's web site. The information provides an overview of the status of RAPs with updated information provided by state or local officials. The information, however, does not present an analysis of the progress in cleaning up areas or time frames for expected completion.

EPA Has Shifted Its Focus to Other Great Lakes Activities

EPA has reduced support for the RAP process and redirected its efforts to several other Great Lakes initiatives, many of which are required in the agreement and either directly or indirectly affect the areas. Specifically, the Water Divisions have focused resources on the development of LaMPs. LaMPs address overall concerns in the open lake waters, such as reduction in loadings of critical pollutants, but they do not replace the RAPs, which are intended to clean up the shoreline where most of the contamination occurs. GLNPO has been involved in several other initiatives, including coordinating the development of a Great Lakes strategy. The strategy was developed by the U.S. Policy Committee, which is comprised of representatives from federal, state, and tribal organizations responsible for the actions specified in the agreement. The strategy sets forth certain goals, objectives, and actions the parties agree to address, including the following.

- The reduction of toxic substances in the Great Lakes Basin ecosystem. [The reduction of mercury and dioxin emissions from medical waste incinerators was one objective under this goal. A key action for this goal is that Minnesota will achieve a 70 percent reduction of its 1990 mercury emissions by 2005.]
- The development of environmental indicators for the Great Lakes through a series of State of the Lakes Ecosystem Conferences (SOLEC) at which indicators are discussed and agreed upon. These biennial conferences, jointly sponsored by GLNPO and Environment Canada, bring together representatives from federal, state, and provincial organizations, and the general public. The latest conference, held in October 2001, approved 33 of 80 indicators being proposed to assess conditions in the Great Lakes.

- Maintaining a ship for research and monitoring on the Great Lakes and providing another vessel for sampling contaminated sediment.

The strategy also addresses cleaning up areas through RAPs and sets forth objectives to cleanup and delist three areas by 2005, and 10 by 2010 and an acceleration of sediment remediation efforts leading to the cleanup of all sites by 2025. In addition, the strategy calls for delisting guidelines for the areas, which were completed in December 2001. The guidelines include tasks such as requiring monitoring data for achieving restoration goals and addressing impairments caused by local sources within the areas. While the strategy sets forth numerous environmental objectives state environmental officials have questioned how the objectives will be achieved without additional funding.

Conclusions

The process now being used to develop and implement RAPs for many of the contaminated areas in the Great Lakes Basin has deviated from the process outlined in the agreement between the United States and Canada. Momentum for RAP activity waned since EPA diffused the responsibility for ensuring RAP progress among its various offices, began reducing its staff and process-related funding to the states, and shifted its priorities to completing other activities in the Great Lakes Basin. As a result, states and local communities have had to seek funding from other federal programs or other sources in order to continue their cleanup activities. Although EPA's initial investment in the process yielded some results in terms of planning documents and public involvement, EPA is not in a position to provide assurance that such involvement will continue in the future or that the RAPs will be implemented. Without a clear delineation of oversight responsibilities within EPA for RAP implementation, all preliminary efforts and expenditures may have been largely wasted. Absent EPA's support, involvement, and consistent oversight, states and local communities will have difficulty keeping the process moving forward.

Recommendations for Executive Action

To help EPA more effectively oversee the RAP process and meet the United States' commitment under the Great Lakes Water Quality Agreement, we are recommending that the EPA administrator

- clarify which office within EPA is responsible for ensuring RAP implementation, and
- identify the actions, time periods, and resources needed to help EPA fulfill its RAP oversight responsibilities.

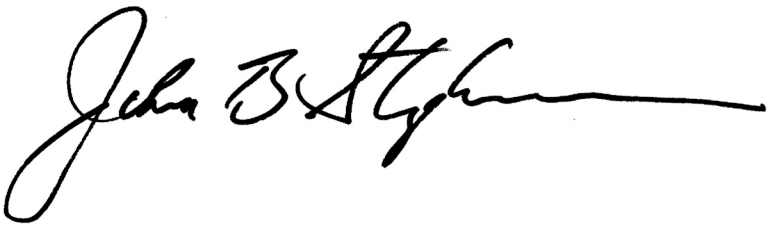
Agency Comments

We provided EPA with a draft of this report for its review and comment. The agency generally agreed with the findings and recommendations in the report. EPA maintained that significant progress was being made at the areas of concern with most RAPs having completed Stage 2 and one having completed Stage 3. However, we and the IJC believe that this does not represent significant progress, and no area of concern within the United States has been delisted. EPA also stated that the RAP process does not fairly represent environmental improvements that are being made at the areas of concern. We recognize that some cleanup activities are being taken within the areas of concern that relate to other program requirements, but maintain that the RAP process is still the primary cleanup vehicle. The agency also stated that it has been actively involved in ensuring that RAPs are developed and it is reviewing the RAP process to create a more effective program. While this may have been true initially, EPA significantly reduced this support and currently provides only limited support for the process. We commend EPA for developing delisting principles and guidelines, but this effort does not directly address the need to improve the overall effectiveness of the RAP process. EPA agreed with our recommendations to clarify which office within EPA is responsible for ensuring RAP implementation, and it will seek to clarify these responsibilities within EPA. As to our recommendation to identify actions, time periods, and resources needed for fulfilling its RAP oversight responsibilities, EPA commented that this would be a difficult task because of the wide spectrum and scale of environmental problems within the areas of concern and other priorities and responsibilities within EPA. We recognize that this task may be difficult, but it is critical if EPA is to fulfill its oversight responsibility. The full text of EPA's comments is included as appendix II.

We conducted our review from September 2001 through April 2002 in accordance with generally accepted government auditing standards. (See app. I for a detailed description of our scope and methodology.)

As arranged with your offices, we plan no further distribution of this report until 30 days after the date of this letter unless you publicly announce its contents earlier. At that time, we will send copies to other appropriate congressional committees, the EPA administrator, and the International Joint Commission. We will also make copies available to others upon request.

Should you or your staff need further information, please contact me on (202) 512-3841. Key contributors to this report are listed in appendix III.



John B. Stephenson
Director, Natural Resources
and Environment

List of Congressional Requesters

Honorable Evan Bayh
United States Senate

The Honorable Mike DeWine
United States Senate

Honorable Carl Levin
United States Senate

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United States Senate

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House of Representatives

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House of Representatives

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House of Representatives

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Honorable Sherrod Brown
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Honorable Bart Stupak
House of Representatives

Honorable Marcy Kaptur
House of Representatives

Honorable Robert Borski
House of Representatives

Appendix I: Scope and Methodology

To assess what progress had been made in developing and implementing cleanup plans for the contaminated areas around the Great Lakes, we reviewed the Great Lakes Water Quality Agreement of 1987, which set forth the United States' obligation to cooperate with state governments to ensure the cleanup of the contaminated areas and described the process for developing and implementing the cleanup plans. We also used Internet web site information that described the cleanup status at the contaminated areas of concern. In addition, we visited areas of concern (areas) in the Milwaukee Wisconsin Estuary and Ashtabula, Ohio, where we discussed cleanup efforts, implementation plans, and assistance provided by federal, state and local agencies. Further, we gathered and analyzed information obtained through interviews with officials from the International Joint Commission (IJC), the Great Lakes Commission, the Northeast Midwest Institute, EPA Headquarters and Region V Office of Water, and the Great Lakes National Program Office (GLNPO), the U.S. Army Corps of Engineers, the Wisconsin Department of Natural Resources, the Ohio Environmental Protection Agency, and local community advisory groups responsible for cleanup activities at the selected areas.

To determine how the cleanup plans were being used at other areas, we visited the Michigan Department of Environmental Quality, which manages the greatest number of contaminated areas (14), and solicited telephone and written comments from each of the other five Great Lakes states concerning their cleanup activities and the remedial action plan process. To further assess EPA efforts to provide oversight for the contaminated area cleanup process, we reviewed EPA's legislative responsibilities for providing oversight under the Clean Water Act and discussed with EPA, state, and other federal agencies EPA's success in fulfilling these responsibilities.

Appendix II: Comments from the Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
GREAT LAKES NATIONAL PROGRAM OFFICE
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 15 2002

John B. Stephenson
Director, Natural Resources and the Environment
U.S. General Accounting Office
Washington, DC 20548

Dear Mr. Stephenson:

Thank you for the opportunity to review the proposed General Accounting Office (GAO) Report; *Great Lakes: EPA Needs to Define Organizational Responsibilities Better for Effective Oversight and Cleanup of Contaminated Areas*. We appreciate your staff's efforts to understand the complexities of the Remedial Action Plan (RAP) Program for the Great Lakes Areas of Concern (AOCs) and we are giving careful consideration to your recommendations. Our initial comments are outlined below, with the understanding that EPA will be given an additional opportunity to comment on the report after it is submitted to Congress.

Your first charge was to determine what progress has been made in developing and implementing RAPs. I want to reaffirm the U.S Great Lakes Program's strong and ongoing commitment to the Great Lakes Water Quality Agreement (the Agreement), and to the RAP process for the U.S. AOCs. Since the 1987 signing of the Protocol to the Agreement, the U.S. Great Lakes Program has focused a large amount of effort and resources to restore these areas. And while we can always improve on the process, I can confirm that much progress has been made toward restoring the beneficial uses in these areas. We are committed to doing as much as possible to meet all our responsibilities under the Agreement. As an example, the recently released Great Lakes Strategy, a product of the U.S. Policy Committee, focuses multi-agency resources and commitments on the AOCs to help achieve the Strategy's goals of delisting at least three AOCs by 2005 and a cumulative goal of ten by 2010.

The implementation of the identified remedial actions in the RAPs can be complicated due to the multi-media nature of the problems encountered and the inter-agency and inter-jurisdictional coordination required to implement these actions. In addition, the very substantial costs involved in many of these activities have slowed the rate of progress in many AOCs. But this situation has

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not deterred the achievement of significant progress in the AOCs. From a process standpoint, most of the RAPs have completed Stage 2 documents, and one has completed a Stage 3. Recently, the Presque Isle Bay, Pennsylvania AOC Citizens Action Group has requested that the AOC be redesignated as the first U.S. AOC to be an Area of Recovery.

While very important, these highlights of progress in the RAP *process* do not fairly represent the actual on the ground improvements which are being continuously implemented in all 31 U.S. AOCs. Numerous contaminated sediment remediations, enforcement actions, infrastructure improvements, habitat restoration projects, pollution prevention programs, and educational opportunities are more accurate measures of progress in achieving the restoration of the beneficial uses in the AOCs and, eventually, to their formal delisting.

EPA is committed to tracking and reporting on progress achieved in the AOCs. We have created and are actively maintaining a website for the U.S. AOCs at:

www.epa.gov/glnpo/aoc/

In addition, we recently released a summary document entitled *An Overview of U.S. Great Lakes Areas of Concern* which is available from EPA's Great Lakes National Program Office (GLNPO). This document will be updated and released on a regular basis.

Your second charge was to assess the effectiveness of EPA's efforts to ensure that RAPs are developed and implemented.

Section 118(3)(A) of the Clean Water Act calls for the Program Office (GLNPO) to ensure that each Great Lakes State in which an AOC is located submits a RAP for each AOC to the Program Office and to the International Joint Commission. Through Coastal Environmental Management (CEM) funding which provides resources for managing and coordinating the RAP program, through the U.S. Policy Committee (which includes federal and state agencies) that assists in overseeing the RAP program, and by commitments included in the U.S. Great Lakes Strategy (as mentioned above), EPA has been actively ensuring that RAPs are being developed for all 31 U.S. AOCs and that the remedial actions identified in the RAPs are being implemented under appropriate environmental statutes and programs, and as resources are made available.

To build upon this record of progress, EPA is actively reviewing the RAP process to create a more effective program. We have been holding internal discussions and working with our State partners to help refine and redirect our efforts. One significant outcome of this effort has been the completion of the

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federal/state authored paper entitled *Restoring U.S. Areas of Concern: Delisting Principles and Guidelines.* This document gives RAP practitioners important tools for insuring progress and maintaining momentum in the AOCs. The U.S. RAP program will continue to identify opportunities to improve the program and to accelerate the rate of remedial activities and environmental restoration.

It is important to remember that RAPs are only one of many requirements that the U.S. has under the Agreement. The RAPs were not intended to track and report on the many other provisions of the Agreement which have substantial and immediate benefits for the AOCs.

Response to Recommendations

Your first recommendation is that the EPA Administrator clarify which office within EPA is responsible for ensuring RAP implementation.

As described in the GAO report, EPA's management responsibilities for the RAP program has been modified over the life of the program. At the moment, these responsibilities are divided between the Water Divisions in EPA Regions 2, 3, and 5 and GLNPO. EPA will seek to clarify these responsibilities in discussions with representatives from these three Regions, GLNPO, and EPA headquarters.

Your second recommendation is that the EPA Administrator identify the actions, time periods, and resources needed to help EPA fulfill its RAP oversight responsibilities.

The identification of actions, time periods, and resources needed would help the Agency fulfill its RAP oversight responsibilities. Reliably assessing and fulfilling these needs, however, is very difficult, given the wide spectrum and scale of the environmental problems which need to be addressed to restore the AOCs, and the other important priorities and programs that fall within EPA's responsibilities. EPA will discuss this recommendation in detail and identify, where possible, the steps needed to implement this recommendation.

It is important to understand that the RAP Program was never structured or envisioned to provide the funding required to initiate all the remedial actions identified during the RAP process. Rather, the limited RAP funding was initially provided to assess and recommend the remedial actions required to restore the AOCs and to manage and implement the program. It should also be recognized that the required actions are dependent upon the use of authorities across many agencies and many levels of government and the full use of these authorities across governmental agencies must be thoroughly considered.

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In closing, I want to reiterate EPA's strong commitment to the RAP Program for cleaning up and restoring Great Lakes AOCs. We have many significant accomplishments that have bettered environmental conditions in the AOCs, but we also recognize that the RAP process can be significantly improved and that the GAO's conclusions and recommendations can help ensure that even more environmental improvements are made.

I appreciate the opportunity to coordinate with your staff on this project and look forward to the final report. Should you need additional information or have further questions, please contact Mr. Gary Gulezian, Director of EPA's Great Lakes National Program Office, at 312-886-4040.

Very truly yours,

Thomas V. Skinner
Great Lakes National Program Manager

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Appendix III: GAO Contacts and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

Key contributors to this report were Willie E. Bailey, Jonathan S. McMurray, Rosemary Torres-Lerma, Stephanie Luehr, and Karen Keegan.

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