STATEMENT OF KAREN MURPHY
FIELD COORDINATOR FOR
GREAT LAKES UNITED
BEFORE THE
WATER RESOURCES SUBCOMMITTEE
OF THE HOUSE PUBLIC WORKS AND TRANSPORTATION COMMITTEE
CONCERNING
IMPLEMENTATION OF THE GREAT LAKES WATER QUALITY AGREEMENT

MAY 2, 1991

An international organization dedicated to conserving and protecting the Great Lakes and St. Lawrence River"

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STATEMENT TO
THE WATER RESOURCES SUBCOMMITTEE
OF
THE U.S. CONGRESS
BY
KAREN MURPHY
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Good morning. My name is Karen Murphy and I am a Field Coordinator with Great Lakes United. Great Lakes United is a bi-national coalition of over 180 organizations from throughout the Great Lakes-St. Lawrence River Basin dedicated to the conservation and protection of the Basin ecosystem. Our membership, includes environmental organizations, community groups, unions, small businesses, academic and scientific groups and governmental bodies. Groups from Duluth at the western end of the Great Lakes Basin to Quebec City along the St. Lawrence River outflow of the system are represented within Great Lakes United.

Last year, on this same day, Great Lakes United came before this Subcommittee to discuss the critical need for legislative and financial support for the goals and programs outlined in the Great Lakes Water Quality Agreement, specifically, for Great Lakes cleanup plans and for zero discharge and virtual elimination of persistent toxic substances. I want to take this opportunity today to thank Chairman Nowak and the Subcommittee members for their leadership and hard work in ensuring that last year Congress passed the Great Lakes Critical Programs Act. The passage of the Act has made a tremendous difference in strengthening the integration of the Great Lakes Water Quality AgreEment's goals and programs into a regulatory framework -- a framework through which implementation can begin.

The reauthorization of the Clean Water Act offers the opportunity to assure further implementation of the Agreement and address a number of problems plaguing the Great Lakes and other regions of the country. While the Clean Water Act has brought about some important improvements, it has failed to fully achieve the goals of clean water that the public wants and that Congress articulated when it wrote the Act. Reauthorization must address those areas in which the existing Act, or the implementation of the Act, has not been sufficient, specifically: the failure to reduce the use of toxics and the release of persistent toxic substances, and to systematically and effectively deal with poison runoff, combined sewer overflows, wetlands protection and restoration, and contaminated sediments.

This morning I will specifically address Remedial Action Plans (RAPs) and articulate what is needed to ensure that RAPs are implemented. The passage of the Great Lakes Critical Programs Act has had a profound impact on the responsiveness of the EPA

and state governments to the need to develop remedial action plans.

Last year this subcommittee heard testimony to the effect that the RAP process in many areas was stagnating. After 6 years only 1 Remedial Action Plan had been completed. Several of the RAPs submitted to the International Joint Commission for review were found to be inadequate. The Great Lakes Critical Programs Act got the Remedial Action Plan process and the Lakewide Management Plan process for Lake Michigan on track. EPA staff are now participating directly in the development of RAPs. Timelines and schedules for the completion and revision of RAPs are being developed by the states. By instituting deadlines for the RAP program and by tying RAPs to State Water Quality Plans, federal and state agencies were given incentives to get the work of developing the plans completed.

Citizens around the Basin have embraced the RAP process. Not only do RAPs offer the possibility of cleaning up contaminated areas but, they offer the chance of restoring lost community treasures. They offer the hope of restoration. Thousands, perhaps even millions, of volunteer hours have been spent in the development of Remedial Action Plans. If the plans are not implemented citizens across the Basin will be tremendously disappointed.

In order to ensure that these plans are not shelved, we need to think now about Remedial Action Plan implementation. What does implementation mean when we talk about the Clean Water Act and what does it require? Implementation means that RAPs must be integrally tied to existing regulatory programs; it means that new regulatory programs will have to be developed and existing programs strengthened; it means additional research will have to be conducted; and it means an expanded commitment of federal funds.

A. TYING RAPS TO REGULATORY PROGRAMS

In its 1991 Biennial Report, the International Joint Commission recognized the need to give the Great Lakes Water Quality Agreement and its provisions the force of law:

> ..."It [the Commission] has noted on a number of occasions the importance of translating the Objectives of the Agreement explicitly into domestic laws and regulations of both nations." Fifth Biennial Report on Water Quality, International Joint Commission

By requiring, under the Great Lakes Critical Programs Act, that RAPs be incorporated into the State Water Quality Plan, Congress provided EPA with a mechanism for compelling state

accountability for development of remedial action plans -- namely the threat of the loss of state grant funds. In order to ensure that RAPs are implemented -- and that a decrease in pollution also occurs -- we recommend that in addition to being incorporated into the State Water Quality Plan, RAPs should be considered as individual control strategies under the hotspots section of the Clean Water Act -- Section 304 (l).

In the 1987 amendments to the Clean Water Act, Congress added a new section -- Section 304 (l) -- to address toxic hotspots. States are required to submit lists of water segments which do not meet the standards; identify pollutant sources; and develop "individual control strategies" aimed at reducing overall loadings of pollutants to the hotspot areas. Environmentalists and EPA have disagreed about the scope of the law and its relationship to Areas of Concern and Remedial Action Plans. We feel that the Area of Concern designation and the RAP process are mirror images of the provisions outlined in Section 304 (l). In addition, this section of the law offers a mechanism for implementation of the Remedial Action Plans and further defines the role of RAPs in the existing regulatory framework. To achieve this end we recommend that:

- **All Areas of Concern be designated as hotspots under Section 304 (l) -- if they have not already been listed.**

- **Congress clarify the intent of the law to require that point and non-point sources be addressed in the individual control strategies.**

- **Remedial Action Plans serve as individual control strategies for each of these areas.**

The hotspot designation would require the governments to bring the Area of Concern waters into compliance within three years from designation. The benchmarks for compliance would, at a minimum, be the water quality standards and the restoration of uses.

B. NEW AND STRENGTHENED REGULATORY PROGRAMS

With the passage of the Critical Programs Act, Congress has taken steps to ensure that RAPs are developed. We have outlined a mechanism for implementation. However, there are additional programs which are critical to reducing pollution in the Areas of Concern and to the restoration of these Areas. I will briefly focus on four of those programs: contaminated sediments, CSOs, pollution prevention, and wetlands protection.

1. Contaminated Sediments

Forty-two of the forty-three Areas of Concern in the Great Lakes Basin have contaminated sediments. Over time, pollutants in these sediments are released back into the water column by burrowing fish and organisms and dredging and wave action. Plants and aquatic life eat and absorb the contaminants so that they accumulate in the food chain, and are stored in the tissues of fish, birds and other animals. Eventually, they may wind up in the predators at the top of the food chain -- human beings. In some areas of the Basin contaminated sediments are the most significant source of persistent toxic substances. For example, it is estimated that 45 pounds of PCBs are released to Lake Michigan from sediments in Waukegan Harbor annually. Contaminated sediments serve as a reservoir for pollutants in the Great Lakes. This reservoir acts as a continuous source of pollution to the food chain and the Basin ecosystem.

In recognition of the need to address contaminated sediment issues, Congress directed the Great Lakes National Program Office of EPA to conduct demonstration projects on the remediation of contaminated sediments. The Assessment and Remediation of Contaminated Sediments (ARCS) program was a positive step towards evaluating assessment and remediation technologies. What is needed now is a comprehensive national program to cleanup contaminated sediments. At a minimum this program should include:

- **A national inventory of contaminated sediment sites;**
- **A national program for sediment measurement, remediation and clean-up;**
- **Strong sediment quality criteria and standards;**
- **A phase-out period for open water disposal of contaminated sediments;**
- **Aggressive pollution prevention measures to prevent future, and further, pollution of sediments; and**
- **A funding mechanism to pay for a national sediment management strategy.**

And finally, research and demonstration of remedial technologies -- of detoxification technologies -- must continue. Without a comprehensive program to address sediment contamination, Remedial Action Plans will not be fully implemented.

2. Combined Sewer Overflows

Many of the Areas of Concern have combined public stormwater and sanitary sewers. When it rains or snows these systems can

become overwhelmed by high volumes of combined sewage and stormwater, and overflow directly into surface waters. These CSOs can carry raw sewage, toxic contaminants in stormwater, and untreated or partially treated industrial discharges of toxic chemicals and heavy metals. For example, 1979 loadings of pollutants from Detroit CSOs include the following: 186 pounds of PCBs, 34,546 pounds of lead, and 9,970 pounds of mercury.

The costs for CSO remediation can be quite high. For example, the estimated capital costs to remediate the CSO problems along the Rouge River amount to $500 million. By comparison, the money allocated to the Great Lakes for State Revolving Loan Funds for FY 1991 was $724.5 million.

In such cities as Buffalo, New York the cost of large scale CSO remediation becomes, on top of all other costs, a tremendous addition. Citizens involved in the implementation of the Buffalo River Remedial Action Plan are evaluating the applicability of small scale, diffuse methods of controlling CSO problems such as improving individual CSOs and encouraging industries discharging to the system to develop holding tanks for use during storm events.

We believe that Congress should take four actions to address CSO problems in the Basin.

- **Direct the Environmental Protection Agency to develop an information base on the types of CSO remediations being implemented in the U.S. and other countries.**

- **Establish a demonstration program for effective, diffuse types of solutions for CSOs, such as small holding tanks and analysis of storage capacity within the existing system.**

- **Direct EPA to set technological cleanup standards and timetables for action.**

- **Provide financial assistance for CSO remediation.**

CSOs are but one source of poison run-off to our rivers and lakes, other non-point sources contribute to pollution in the Areas of Concern and must be addressed as well.

3. Pollution Prevention

As we begin to learn the true costs of pollution -- in terms of the costs of cleanup, the costs of lost and irreplaceable resources, and the costs to human and environmental health -- the lesson is clear, we can no longer sanction the pollution of our environment. The discharge permit of today may well be the lost species of tomorrow. In the Fifth Biennial Report of the

International Joint Commission, the Commission made the following recommendations to the Governments:

> " We urge the Parties to:
> 1. take every available action to stop the inflow of persistent toxic substances into the Great Lakes environment."

The IJC went on to state:

> ..."the Commission must conclude that there is a threat to the health of our children emanating from exposure to persistent toxic substances, even at very low ambient levels...the mounting evidence cannot be denied. Government must emphasize development and implementation of a comprehensive, bi-national program to lessen the use of, and human exposure to, persistent toxic chemicals found in the Great Lakes environment...

The Clean Water Act of 1972 was the embodiment of these recommendations. In 1972 the Act established a goal that the discharge of toxic and other pollutants be eliminated by 1985. This zero discharge goal applies to all discharges, regardless of whether they persist or biomagnify. But the goal has not been met. According to the Toxics Release Inventory data for 1988, 403.1 million pounds of chemicals were discharged directly into surface waters and 614.8 million pounds went to public sewage systems.

The Clean Water Act has failed to achieve the goal of zero discharge for two reasons. First, the focus of regulatory efforts has been on controlling discharges at the end of the pipe rather than trying to reduce the use of toxic substances. And secondly, the EPA and the states have been slow in implementing and enforcing the law.

In order to implement pollution prevention in the Great Lakes and achieve the goals of the Great Lakes Water Quality Agreement, we recommend that Congress direct EPA to:

- **Prohibit new or increased discharges of toxics into the Great Lakes ecosystem.**

- **Ban the use of the most harmful persistent toxic substances.**

- **Eliminate and reduce the use, generation and disposal of all toxic chemicals through the enactment of model toxics use reduction legislation.**

• In addition, we recommend that Congress designate Lake Superior as a demonstration area where no point source discharge of any persistent toxic substance will be permitted. And further that Lake Superior be designated as outstanding national resource waters.

Pollution prevention and toxics use reduction are critical to the cleanup and restoration of the Areas of Concern. Before we can fully restore the Areas of Concern, we must eliminate and reduce the discharges of contaminants. In fact, we believe, that RAPs should be used as blue prints for toxics use reduction and zero discharge.

4. Wetlands

One issue covered by the Clean Water Act which has gained considerable attention to date is wetlands. We know that this committee will be hearing additional testimony on this issue but would like to take this opportunity to voice in the strongest possible terms the belief of our members that stronger, not weaker, wetlands protection is desperately needed. Within the Great Lakes region we have lost over 65% of our original wetlands. We simply cannot afford to lose any more. Annex 13 of the GLWQA commits the Parties to identify, preserve, and where necessary rehabilitate significant wetland sites threatened by urban and agricultural development and waste disposal. Neither the U.S. nor Canada have upheld this commitment and specific direction from Congress related to this is needed.

• Congress should direct EPA and the U.S. Fish and Wildlife Service to develop a plan and program for implementing Annex 13 of the Great Lakes Water Quality Agreement.

5. Funding

The initial legislation developed by this committee last year included provisions for grants to the states to carry out the RAP programs identified. We applaud your efforts to support these legislative initiatives with resources. Adequately funding environmental programs is critical to their success. We recommend that:

• Congress fund grants to the states to support RAP development and RAP implementation.

• Congress provide sufficient grants to the states to carry out other water quality activities.

• Congress direct the Great Lakes National Program Office of EPA to assist the states in utilizing existing federal grant programs to support cleanup in the Areas of Concern.

In conclusion, I hope that I have laid out a framework today in which the implementation of RAPs can occur. The components of this framework are numerous but generally fall into four categories:

- First, we need a regulatory framework for ensuring that RAPs achieve reductions in pollution in the Areas of Concern. We believe that Section 304 (l) may be one mechanism for accomplishing this.

- Secondly, existing water quality programs must be strengthened and must focus on pollution prevention and toxics use reduction.

- Thirdly, a national program to address contaminated sediments must be developed.

- And finally, adequate funding for all water quality programs must be provided.