

Where Is Great Lakes Water Level Policy Headed?

By David J. Miller,
Executive Director, Great Lakes United

The Great Lakes, in their natural mystique, have shown their residents that they truly are unpredictable. In 1985 and 1986, recorded lake levels were the highest since 1900. In an equally dramatic fashion, the lake levels have dropped in the past two years at a record pace. All the Great Lakes have dropped two and a half to three feet in that time period, bringing them to or below their mean recorded level.

While the changes in lake levels have been inconvenient to certain special interests in the Basin, they are vital to the long-term ecological diversity and stability of the resource. Fluctuations in lake levels replenish wetlands, provide new habitats and ensure the biological diversity of the ecosystem. These changes are dictated by the laws of nature, and our attempts to artificially control levels or upset this natural balance can bring long-term negative impacts. Currently, the levels of Lakes Superior and Ontario are modestly controlled without completely understanding the impact. Control of the Great Lakes poses significant ecological, social and technological questions.

Thus, the challenge is to choose a policy which allows the natural fluctuations of the Lakes while providing human benefits within those bounds. Significant steps have been made to achieve this goal through regional agreements, federal legislation and international accords. The Great Lakes Charter, signed by all eight Great Lakes Governors and two Canadian Premiers in 1985, provides a framework opposing diversions and promoting environmentally-sound water resource management within the Basin. Environment Canada Minister Tom McMillan and Ontario Premier David Peterson embraced this approach in their governmental policy statements. The U.S. Congress passed H.R. 6 which incorporates the overall principles of the Great Lakes Charter

and prohibits the use of federal funds for new water diversions out of the Great Lakes Basin unless all eight Governors agree.

With these policies in place, the International Joint Commission (IJC) has embarked on a Great Lakes Water Level Reference, a comprehensive study to investigate all alternatives available to address lake level issues. Policy issues to be addressed include, but are not limited to, coastal zone management, water diversions, connecting channel flow modifications, shoreline protection devices and ice management. The following central questions remain: Will this reference once again reshape our water level policy? Will human activities on the lakes be of a stewardship mode...or fall into the category of natural resource manipulation? Finally, will the interests of a certain sector of society or the fact that an action is technologically feasible outweigh the generic ecological interest of the Great Lakes?

While human activity will always impact the Lakes, that activity should be based on a goal of minimal resource disruption. The following policy and proposal factors which are looming in the wings threaten the stewardship philosophy:

- Proposals to divert Great Lakes water continue to emerge, whether to alleviate the woes of shoreline property owners during high lake levels (see *The Great Lakes United*, Spring 1987); to alleviate the low water woes of the Mississippi River, as in the summer of 1988; or to allow a coal slurry pipeline to the West.
- Enormous diversion proposals such as the Grand Canal Project (aimed at damming James Bay, diverting water to the Lakes, then diverting water from the Lakes to the western and southwestern North America) are still receiving selective governmental and private sector support for feasibility studies in Canada. This

massive project, if ever realized, would reduce the Great Lakes to nothing more than a holding pond for North America's water supply needs.

- Certain feasibility studies in the IJC reference are "to determine if it is technically possible" to control the flows at the St. Clair/Detroit Rivers and Niagara River through excavation of channels and establishment of new lock systems.
- New policy implications in the U.S. - Canadian Free Trade Agreement which could qualify water as a commodity or "public good," enabling water to be diverted for economic gain. (*The Great Lakes United*, Summer 1988).

Our challenge is to maintain and re-establish a philosophy of natural resource stewardship in water level policies. Let us ensure that the IJC's reference reflects that philosophy and is not unduly influenced by the loudest special interest of the time. Policies which reflect what is best for the Great Lakes do not constitute a special inter-

est, but a generic interest for us all. The Great Lakes need a water resource policy which will stand the test of time and not simply constitute a string of proposals to manipulate the lakes for human benefit.

Are water level and diversion policies so fragile that we are doomed to a constant "fire drill" mentality for every new proposal to divert or change the flows of the Great Lakes? Can we establish a strong water policy to block the loudest special interest of the day? Shouldn't we learn to manage our coastal activities within the bounds of nature?

The answer to these questions will determine where our Great Lakes water level policy is headed. Our philosophy must be based on *stewardship*, rather than *manipulation* for short-term gain. The Great Lakes currently provide a wondrous array of benefits to their inhabitants. We challenge every Great Lakes citizen, government body and the IJC to put aside human special interest and "Let the Great Lakes be great." If we don't allow the Great Lakes to be themselves, our collective interests will be harmed in the end. □



Is A Canada Superfund Around The Corner?

By Bruce Kershner,
GLU Lake Erie Coordinator

There has not been a shovel of dirt turned yet."

That succinctly expresses environmentalists' impatience with Canada's lack of action on cleaning up its abandoned hazardous waste sites and contaminated sediments. While the U.S. has had a Superfund for eight years -- cumbersome and slow as it is -- Canada still has no comprehensive national clean-up program to remedy its own "Love Canals."

Canadian environmental groups have been strongly supportive of a national clean-up fund. "A Canadian superfund has been way too long in coming," states Sarah Miller of the Canadian Environmental Law Association. "Hazardous waste site cleanup in Canada is at a standstill," concurs Daniel Green of the Societe pour Vaincre la Pollution. "Unless we get a dedicated source of funding, Canada will never get a comprehensive cleanup."

There is no current comprehensive federal or provincial fund for hazardous site cleanup in Canada. "Only legal settlements - which are so hard to come by - and Remedial Action Plans, with their limited and uncertain sources of funds, are available for cleanup on an ad hoc basis," points out Paul Muldoon of Energy Probe. Ontario has a \$10 to \$20 million environmental security fund, but it is primarily used to respond to emergencies such as spills, not for a comprehensive cleanup of orphan waste sites.

There is wide political support for a Canadian national clean-up fund. This was evident at the October meeting of the Canadian Council of Resource and Environment Ministers in Winnipeg. Most of the provincial ministers are supporters, and the environment ministers for Quebec and Ontario have been pushing hard for the fund. The Liberal and New Democratic (NDP) Parties are also strongly supportive. Two western provinces are believed reluctant to agree to the superfund, presumably because they would have to share the cost of an

"eastern Canada" problem. "This regionalism is as Canadian as maple syrup," quips Daniel Green.

A spokesman for the Conservative Party's Brian Mulroney said that "the federal government has been as interested in a clean-up fund as the provinces have been...it's a good idea." The party is waiting, however, to hear back from the Environment Ministers' special committee which will make its final recommendations next March.

While the *concept* has much agreement, there is much disagreement on the *method* that would finance the fund.

Environmentalists and the NDP are pushing for a federal tax on producers of toxic waste, rather than relying solely on general revenues. "It must be based on the polluter-must-pay principle," emphasizes John Jackson of the Ontario Toxic Waste Research Coalition.

The Liberal Party, on the other hand, believes it should be financed from general revenue. The Liberal Party's Charles Caccia asserts, "A corporate income tax would hamstring the cleanup

Can an Aquafund Become Part of the Contaminated Sediment Solution?

This fascinating idea is a topic at the November 30 - December 3 contaminated sediments conference in Merrillville, Indiana. Great Lakes advocates are encouraged to share their ideas on this subject.

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because it would never be adequate. And industry would just pass the cost onto the consumer."

Daniel Green responds that "pushing up the price of environmentally-damaging products would actually be beneficial, since higher prices will make them less marketable and dampen demand."

The chemical industry is also opposed to a corporate tax, claiming that "it violates the polluter-must-pay principle, since not all chemical industries have contributed to the past pollution." Ontario Ministry of the Environment (MOE) spokesman David Oved responds, "Of course, some companies are more responsible than others (for the

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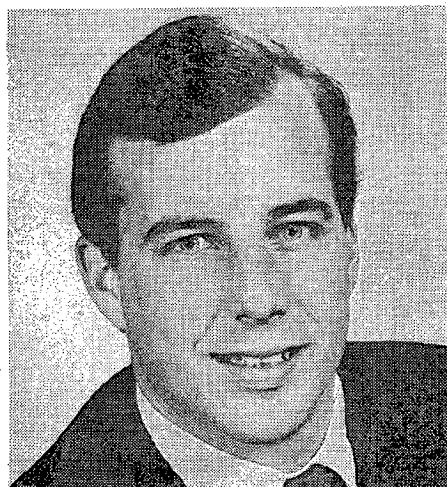


Departing Staff Leave Bold Legacy

Four years ago, Great Lakes United (GLU) was an obscure, fledgling conservation organization. Today, because of the dedication and talents of GLU's first full-time Executive Director David J. Miller, we are a well-known and effective Great Lakes advocacy coalition comprising 200 organizational members.

Great Lakes United wants to express its deepest appreciation to David Miller for his leadership and accomplishments. This month Miller will join the staff of a sister organization, the National Audubon Society. He will serve as its Northeast Regional Vice President, overseeing operations in New York and New England, a region with more than 100 chapters. From his post in Albany, NY, he will focus on issues of wildlife preservation, habitat protection and water quality.

"David came as executive director to a brand new organization struggling to pull itself up by its bootstraps," said GLU President Frederick L. Brown. "He has



David Miller

done a tremendous job, and we put great value on it. Through his contacts with organizations and foundations, he got us the funding that enabled us to grow in stature, advance our programs and provide support. He has been responsible for developing and directing a very effective staff."

In an unrelated move, Tim Eder, GLU's Field Coordinator for almost three years, will be relocating to his home state of Michigan to join the National Wildlife Federation's Great Lakes Natural Resources Center. In the Center's office in Ann Arbor, he will continue to address implementation of the Great Lakes Water Quality Agreement by advocating improved water quality standards and other programs.

"GLU will miss the expertise of David Miller and Tim Eder. Their success in their respective functions obviously has attracted attention not only for GLU, but also for themselves," Dr. Brown pointed out. "We wish them well as they take on increased responsibilities in their new positions."

During Miller's tenure, the staff has grown to eight people, membership diversified from 70 organizational members to more than 200, and individual membership rose from 50 to 500. He established a sound fiscal base, increasing the budget from \$60,000 to \$320,000 and the number of supporting foundations from one to eight.

Miller was able to bring the ecosystem perspective to public policy. He opened the doors of top political leaders of both countries. As a nationally known coalition builder, he worked with a diversity of groups to present a common theme -- the importance of the Great Lakes -- across both countries. Because

of Miller, more people appreciate the Lakes than ever before.

A strong stand on water diversion and coastal zone management, reinforcement of the Great Lakes Water Quality Agreement and the inclusion of New York and Pennsylvania on the Council of Great Lakes Governors were some of his achievements. His work in promoting the Remedial Action Plan (RAP) process, improvements to Ontario's municipal toxic waste treatment program, and in clean-up plans for the Buffalo and Niagara Rivers were a few of his other legacies.

"Throughout my directorship at GLU, I've had the pleasure of viewing myself not as American or Canadian, but as a citizen of the Great Lakes who served as a conduit for the collective actions of our members," Miller relates. "I feel privileged to have had the opportunity to work for you and the protection of the Great Lakes."

Tim Eder contributed as well to GLU's rise to prominence. He was the lead staff on 19 citizens' hearings held during 1986 around the Great Lakes. These hearings gave the public its first opportunity to air Great Lakes concerns, provided support for a citizen role in reviewing the Great Lakes Water Quality Agreement and gave a huge boost to grassroots effectiveness throughout the Basin.

The momentum from the hearings and the resultant report, *Unfulfilled Promises*, not only put GLU "on the map," it provided the impetus for the governments to hold their own public hearings on the Agreement. Finally, it led to a truly historic precedent: GLU and several member groups were appointed to the U.S. and Canada negotiating teams to work out the 1987 amendments to the Agreement -- one of the rare times citizens have been granted this role. Thereafter, the Agreement went from an obscure government document to one with a wide citizen constituency backing its enforcement.

Eder helped gain a major citizen role



Tim Eder

on RAPs, which would have been much less likely without his efforts. He worked directly on RAPs, such as the St. Clair, Detroit and Oswego Rivers, among others. Winter navigation, the Wisconsin Clean Water Campaign, Michigan's water quality standards and Lake Ontario issues and conferences were other highlights.

Of his accomplishment with the Water Quality Agreement, Tim says, "This was GLU's achievement, not mine. People will remember only that GLU got the seat at the negotiating table."

A seven-member search committee has initiated a national search process for a new director, who will then hire a new field coordinator.

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Canada Superfund is Needed

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pollution), and some can't be made to pay since they no longer exist. But the industry that produces the risks should pay for the 'insurance policy'. The people on the street should not pay."

The chemical industry also wants to delay the creation of a superfund until a "national study is completed to make sure there is a problem," the Canadian Chemical Producers Association says.

Responds MOE's David Oved, "They may not be aware of hundreds of thousands of orphan sites, but we are. I'm not surprised that they want to stall." Sarah Miller adds that "the fund could be designed to finance a national study and identify the sites which are the most hazardous. There's no reason to hold up the superfund."

Canadians aim to avoid the problems of the U.S. Superfund. "We're certainly not 'married' to photocopying the U.S. legislation," remarks Oved. Paul Muldoon proposes, "We should first use the

fund to clean up sites, rather than going through the lengthy process of deciding legal liability first, as the U.S. Superfund does."

Environmentalists also want it to address contaminated sediments that have been laid down throughout the Basin's bays and rivers. The persistent toxics are accumulating and moving up in the food chain, contaminating fish and wildlife, threatening human health and hampering dredging for commerce. Every Canadian Area of Concern, for example, is plagued by contaminated sediments. Not addressing the sediment problem is a serious inadequacy of the U.S. Superfund, besides its bureaucratic slowness. Canada has the advantage of learning from the U.S.'s mistakes at the onset.

Many superfund supporters feel that no matter what the outcome of Canada's November election is, there will be heavy pressure on its officials to react quickly and positively to the creation of a new superfund for Canada.

From The President...

By Frederick L. Brown, Ph.D.

In each of our two nations a critical question has been answered. We have each elected national governments. What new directions, if any, will be established for the Great Lakes Basin? Will there be new resolve to solve old problems?

Our goals remain the same. Critical to the implementation of the Great Lakes Water Quality Agreement with its new (1987) Protocol are remedial action planning for the IJC's Areas of Concern, and development of procedures for judging and assessing adequacy of a jurisdiction's anti-pollution laws, rules, guidelines, etc. In both cases, actions to date raise real questions relative to ultimate compliance with the requirements of the Agreement.

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Remedial planning is underway all around the Basin. However, the IJC's Water Quality Board has not completed definitions which are critical to that planning. For example, to what extent should tributaries be included in the planning process? How far upstream should planners consider pollutant sources? The final decision to these questions will determine adequacy of remediation relative to pollutant loading and preventive measures.

Another example: plans generally address designated water uses as determined by past classification of water bodies, while the Agreement requires restoration of beneficial uses. To a significant extent, the two are not the same.

Laws, rules and water quality standards are the means by which individual jurisdictions control water quality. If the

requirement of the Agreement -- "...virtual elimination of persistent toxic substances..." -- is to be more than just words on paper, our federal governments must insist that jurisdictions come into compliance through their respective water quality standards. Approval authority, and procedures under that authority, must be delegated and developed to provide necessary overview of jurisdictions' actions.

These are but three examples of concerns shared by our members around the Basin. Our newly-elected national governments must now be put to the test. Will the Agreement be implemented? Full implementation is the goal of Great Lakes United, for only with such implementation will Basin water quality be restored.



Passez les BCPs, S'il Vous Plait? (Pass the PCBs, Please?)

By Abby Curkeet,
Société pour vaincre la pollution

Last summer, the Quebec-based environmental organization, Société pour vaincre la pollution (SVP), devised a plan to prove to the people of Quebec that to eat a fish from the St. Lawrence River is to expose oneself to toxic chemicals.

"Everyone knows the fish in the St. Lawrence River are contaminated, but therein lies the problem. Everyone in this case is no one," said Daniel Green, co-president of SVP. "Few people can relate to generalizations about toxic contaminant levels in fish and river

sediments. Our challenge was to find a means of driving home the grim fact that to eat a St. Lawrence River fish is to eat PCBs, mercury, hexachlorobenzene, DDT, and a plateful of other hazardous chemicals."

There is a wealth of information already published on toxics in the St. Lawrence environment, Green acknowledged. "The problem is that the data remains inaccessible to most citizens. So what if fish number AZ1506 in Environment Canada document EC26-120013 contains 5 parts per million (ppm) of PCB?" Green asked. "How does this pertain to the walleye that the sports fisherman will catch next weekend and eat at the family dinner table on Sunday night?"

The SVP staff asked themselves how they could best inform people, both individually and collectively, of the danger of toxic chemicals in their St. Lawrence River fish. The answer: "Info-Fisherman," a project that analyzes the fish that land on the angler's plate.

A team of students trained in survey techniques and preparation of fish samples for laboratory analysis was hired to spend weekends convincing St. Lawrence River sports fishermen to donate their catch. In return, the fishermen received, at no cost to themselves, the results of analyses

performed by an independent laboratory. The results were accompanied by advice on consumption of their catch, based on the contaminant levels in their specimen and the area of the St. Lawrence from which the fish was taken. The contamination profile the fishermen received included a list of the companies polluting the river in the sector where their fish were caught. The results, entered into SVP's computer banks, were also furnished to the media, which worked with SVP to publicize the results across Quebec.

The project, to date, has been highly successful. Not only has SVP alerted thousands of people to the importance of strictly adhering to provincial fish advisories, it has also uncovered contaminant levels in fish that surprised even the Quebec government.

An eel taken from Lake St. Francis, a widening of the river, contained polycyclic aromatic hydrocarbons (PAHs) in the parts per million range. A Canadian Department of Health & Welfare chemist responding to SVP's analysis found the concentration "astounding." Although the eels are not traditionally consumed by fishermen in the area, SVP observes that the population of ethnic fishermen who consume eels and other bottom feeders like carp and sturgeon is increasing. In addition, the eels provide income for commercial Quebec fishermen who export them to France for consumption there. The largest sources of PAH contamination in the lake are Reynolds Metals and Alcoa Aluminum smelters of New York, located just a few miles west of the Quebec sector from which the eels were taken.

SVP found the most commonly eaten fish, perch, are as highly contaminated as other species in Lake St. Louis and other parts of the St. Lawrence River around Montreal. Nevertheless, based

on its data, the Quebec government continues to advise fishermen that perch poses less of a health hazard than do pike, walleye and bass.

Daniel Green noted the objective of Info-Fisherman is not to gather data for scientific purposes but to provide a public service by informing anglers and their families of the risks inherent in eating their catch.

He said the problem with government data is that it is not "site specific." Fish consumption advisories issued by the Quebec government are based on analysis of fish taken from a large area of the St. Lawrence. The government data are indicative of a theoretical mean or average contamination among fish species.

In contrast, the SVP Info-Fisherman project takes a fine-tuned approach to its fish surveys that Green feels is more representative of the "realities of local contamination." "SVP's data permit it to inform fishermen of the probability of catching a contaminated fish associated with a particular sector of the St. Lawrence."

Info-Fisherman does not come cheap. SVP has secured grants from the Joyce and Public Welfare Foundations to help pay for the project's costly laboratory analysis. Perhaps because of the controversial aspects of the project, funding has been difficult to obtain closer to home. Despite the project's popularity, Green said the Quebec Tourism and Game Department has refused SVP's request for funds that would enable it to continue the program next summer. The Department informed him it objects to information the environmental watchdog group provides to fishermen linking polluting industries to toxic contamination of specific sectors of the river and the fish in those sectors. □



Daniel Green examining toxic St. Lawrence fish.

Saving the Most Polluted Great Lake, A Citizens' Agenda

By Paul Muldoon, Energy Probe

Lake Ontario may be the smallest Great Lake, but it is the largest in terms of its pollution problem.

Mindful of this, Lake Ontario advocates organized a campaign to address the issue. They arranged a regional meeting to brainstorm and share ideas on remedying the problem and conducted a publicity tour of the lake, called the Lake Ontario Caravan, last summer.

Out of that effort, Great Lakes United released a report, *A Citizens' Agenda for Restoring Lake Ontario*, at press conferences held in Hamilton, Rochester and Kingston. The report documents the concerns of Lake Ontario citizens who are frustrated and angered by delays for cleanup of the Lake and frightened by the possible human health effects from toxic contamination.

One of the key recommendations of the *Citizens' Agenda* is that human health studies of those high risk groups living around Lake Ontario be undertaken immediately so that the public can have some understanding of the human health impacts of toxic pollution. The report advocates a "fundamental shift in the focus of government programs away from 'end of the pipe,' or 'managed disposal,' to pollution prevention through toxic use reduction and hazardous waste reduction." One step in this direction would be for governments to require users of hazardous substances to document that they have first utilized all possible technologies to avoid, reduce

and recycle their wastes before being granted permits to discharge into waterways or the air.

Other recommendations include:

- A ban, by 1998, on any further discharges of the most toxic, persistent and bioaccumulative substances contaminating Lake Ontario;
- Until outright bans take place, timetables and schedules for reducing further discharges from industry and municipalities;
- Spelling out clean-up deadlines for parties responsible for leaking dumpsites;
- A ban on dumping contaminated sediments into open lake waters from polluted harbours in New York and Ontario, along with establishing federal, provincial and state clean-up funds for contaminated sediments hot spots.

The report evolved from a Lake Ontario meeting of Great Lakes advocates sponsored by Great Lakes United and other environmental organizations in December of last year. The principles that emerged from that meeting were further developed by a steering committee of participants, including representatives from Great Lakes United, Pollution Probe, Citizen Action of New York, the Canadian Environmental Law Association and Energy Probe.

The principles enunciated in the *Citizens' Agenda* provided a basis for further discussion at various Lake Ontario meetings. These meetings were part of the Lake Ontario Organizing Network's

(L.O.O.N.) Caravan, a project sponsored by Pollution Probe. The Caravan spent the summer traveling to over a dozen Lake communities raising the profile of issues affecting the Lake and making people more aware of what they can do to address those issues. The *Citizens' Agenda* and these meetings provided the basis for the L.O.O.N. Conference held during September 16-18, 1988 in



Paul Muldoon speaking at LOON Conference Kingston, Ontario.

The L.O.O.N. Conference, with over 40 attendees, was designed as a citizens' workshop to exchange ideas and develop strategies to implement the principles of the *Citizens' Agenda*. The plenary session consisted of a panel which discussed wildlife and human health concerns in Lake Ontario, the concept of "zero discharge" and barriers to its implementation. After the plenary, a variety of projects that can be implemented in the Basin were identified and three were selected to be carried out:

- Political Awareness Campaign - this project intends to make the issues of

Lake Ontario better known to decision-makers, especially after municipal elections in Ontario and the federal elections in both countries. The project's first step was the mailing of a open letter to the Prime Minister of Canada and the President of the United States which documented citizens' concerns and responses about Lake Ontario. This letter was distributed to newspapers around the Lake.

- A Health Studies Campaign - certainly one of the issues of great concern to basin residents is that of the human health effects of toxic contamination. In light of government hesitancy to undertake studies, various groups now intend to study human health effects in their particular locality.
- Developing RAP Criteria - in most Areas of Concern, Remedial Action Plans (RAPs) are well underway. However, evaluating them is difficult, since an "ideal" or model RAP has yet to be developed. Hence, a project was proposed to develop criteria for a model RAP which can be used in all areas where residents are attempting to make a RAP as successful as possible.

Through such initiatives as the *Citizens' Agenda* and the L.O.O.N. Caravan and Conference, the concerns and aspirations of Lake Ontario residents have been voiced. The challenge is now to ensure that those concerns and aspirations continue to be heard. □



A New Beginning For the Buffalo River

By Dr. Barry Boyer,
Buffalo River Citizens' Committee

The coming of the new year will also mark a new era for the Buffalo River, one of the 42 polluted "Areas of Concern" in the Great Lakes. A Remedial Action Plan (RAP), designed to restore the beneficial uses lost to toxic wastes and conventional pollutants, is now being finalized and will be released for public comment early in 1989.

The Plan, which has been in development for a year and a half, represents the joint effort of the Buffalo River Citizens' Committee and the New York State Department of Environmental Conservation (DEC). It will be one of the first RAPs to be completed on either side of the border.

Like many pollution "hot spots" around the Lakes, the Buffalo River suffered from a wide variety of environmental insults during the age of heavy industry. More than two dozen inactive chemical waste sites lie within its watershed. Combined sewers, carrying both conventional and toxic pollutants, overflow to the river when a heavy rainstorm hits the area. Riverbottom sediments are contaminated with a variety of metals and organic chemicals, and bottom-feeding fish have a high incidence of cancer. Industrial and municipal discharges have declined as heavy industry has closed down in South Buffalo, but some are still permitted to discharge effluents into the River.

Cleaning up the results of generations of neglect and exploitation will not be an easy or a quick process, but the Citizens' Committee is committed to staying the course until the job is complete. A number of obstacles and frustrations have already had to be overcome in preparing the draft RAP:

- Lack of good, reliable and current data about the river and the organisms that inhabit it has been a major problem. Often it has seemed that the only information we can get is not useful. This is largely because of the way government is organized to regulate the environment. Functions are divided among different offices, bureaus and agencies, each of which collects only the information it needs to run its programs. Newer programs, like the one dealing with abandoned dumps, have not standardized their data collection, and some problems, such as contaminated sediments, have not been monitored on a regular basis. Integrating the information that is available in order to get a comprehensive picture of the ecosystem's health is a formidable job.
- Lack of adequate criteria makes it difficult to determine whether there really is a problem in an Area of Concern. There are no standards for the hazards posed by contaminated sediments, for example, and so it is necessary to make judgments about each substance found in the area. Does benzo(a)pyrene cause cancers in certain types of fish? Has it caused fish cancers in the Buffalo River? If so, how clean is clean—that is, how much of the in-place pollutants do we have

to remove in order to restore the health of the river and the things that live there? Unless questions like these can be answered, it may be impossible to design and implement an adequate Remedial Action Plan.

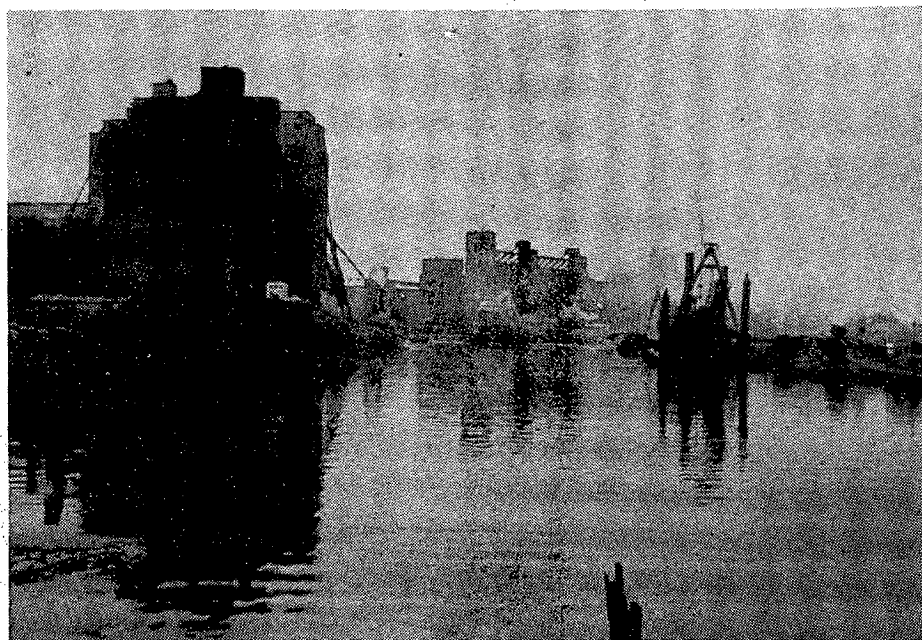
- While the planning process is slowly progressing, circumstances are rapidly changing along the River. Abandoned industrial land is being eyed for redevelopment projects, and units of local government are launching an ambitious planning process to revitalize the area. Will some remedial actions, such as removal and destruction of contaminated sediments, be foreclosed by residential and commercial development? Will the Citizens' Committee's hopes for public access to a clean and healthy Buffalo River be frustrated as development gobbles up available land? Will funds for necessary clean-up activities still be available when we know enough to decide what kind of remedial action should be chosen? Often it seems we are running full speed just to keep up with events.

For all its problems and difficulties, the RAP process has also had major rewards for the participants. Though it is taking longer than we would like, most of us still hope and expect to see a much cleaner and healthier Buffalo River—one which will be a resource rather than a problem for the community. Those of us who have worked through the planning process now know a lot more about pollution and pollution control than we did before. As a result, we should be more effective in dealing with future problems, and be able to pass along our knowledge to other activists.

It was also a refreshing change for many of us to work with state regulatory officials in a cooperative, rather than a confrontational, setting. The partnership between DEC and the Citizens' Committee has not always been perfectly smooth, but it has been a real partner-

ship in which both sides have invested an enormous amount of effort and energy. The learning that took place in this effort will have spillover effects, not only for other Remedial Action Plans, but for other environmental issues as well. An informed environmental con-

stituency is the ultimate defense of our lands and waters, and the Buffalo River RAP has strengthened us technically, politically and organizationally. As our bumper stickers proclaim, we're "The Friends of the Buffalo River," and we'll be there when we're needed. □



View looking up the Buffalo River.



Push Intensifies For Erie Area of Concern

By Bruce Kershner,
GLU Lake Erie Coordinator

This month is a first anniversary, of sorts, for Erie, Pennsylvania. One year ago, the International Joint Commission's Water Quality Board declared Erie and its polluted bay an "Emerging Issue" in its 1987 Report on Great Lakes Water Quality.

Today, the issue over whether Erie should be designated as an Area of Concern has gone from "emerging" to "full-blown." It has gone from a local issue to a state-wide and international issue. It is being discussed not just in Erie, but in the halls of the State Capitol, in newspaper editorials in Pittsburgh, in the offices of U.S. Senators and Congressmen and in meetings throughout the Great Lakes Basin.

GLU initiated the movement for the Area of Concern designation for Erie because it would set in motion the Remedial Action Plan (RAP) process and boost efforts to reach the goal of "A Swimmable Bay in 20 Years." As a result of this effort, GLU and its Pennsylvania members have gained the public support of a dozen and a half civic and environmental groups; the IJC's Science Advisory Board; government groups such as the City of Erie Council, the Erie County Council and the Erie County Water Resources Commission; and

elected officials such as Congressman Tom Ridge, County Executive Judith Lynch, and eight state lawmakers. Six of them introduced supportive resolutions into the legislature.

Last May, GLU, the Erie County Environmental Coalition and other organizations met with the Pennsylvania Department of Environmental Resources (DER) Secretary Arthur Davis. The primary obstacle to the designation of Erie as an Area of Concern has been DER's resistance because DER's support is required for the designation to be adopted.

At the meeting, the DER promised GLU that they would announce their own comprehensive clean-up plan in July that would substitute for a Remedial Action Plan process that an Area of Concern designation would have generated. This September, they announced at a news conference their promised "comprehensive clean-up plan": the commitment of \$100,000 to hire a consultant to study the Bay's pollution and the appointment of the current regional water quality manager as the coordinator of the clean-up strategy.

Environmental groups were disappointed that DER did not come through with its promise of a comprehensive clean-up plan process; however, they were encouraged by the fact that their

efforts had succeeded in getting the DER to adopt some initial steps. The DER was finally recognizing it had a responsibility to Pennsylvania's Great Lakes shore.

However, DER's announcement was almost overshadowed by media attention to the fact that DER had pointedly tried to exclude GLU from its meeting with environmental groups which had preceded the news conference.

In a separate statement, the Mayor of Erie announced the creation of the Erie Harbor Improvement Council which will explore strategies to clean up the Bay. GLU and its local members worked hard to get such a council formed.

Another flurry of activity occurred when, at GLU's request, the Pennsylvania Legislature's Joint Conservation Committee held a hearing on the Area of Concern issue in October. A wide show of support resulted. Although scheduled to appear, the DER did not show up, much to the annoyance of the panel of six legislators.

The IJC's Water Quality Board will address the Area of Concern in the near future. GLU will state its case and also seek more support from state and federal officials. Until a comprehensive clean-up plan is begun, Pennsylvania will not succeed in cleaning up Erie's Bay or in meeting the requirements of the Great Lakes Water Quality Agreement. □





Agreement's Promises Are in Jeopardy

By Tim Eder, GLU Field Coordinator

"Make the Agreement matter!" That was the message delivered at a recent meeting of the International Joint Commission's Water Quality Board by Great Lakes United President Dr. Frederick L. Brown and Mark Van Putten of the National Wildlife Federation. In the wake of recent proposals that would seriously erode protection of the Lakes from persistent toxic chemicals, the promises of the amended Great Lakes Water Quality Agreement are in jeopardy.

Brown told the Water Quality Board that the Agreement's provisions are being ignored when critical decisions affecting Great Lakes water quality are made: "A representative of a major industrial discharger in the State of Michigan recently asked me why I was so concerned about this document. 'It's just an agreement between two government executives,' he told me, 'it has no legal meaning. We don't have to adhere to it.' Do you see why we are so concerned?" Dr. Brown asked the Board.

Brown and Van Putten presented *Promises in Jeopardy* to the Board, a report prepared by the two groups along with the Wisconsin Campaign For Clean Water. The report asks the Board to make the Agreement's requirements the determining yardstick used to evaluate proposed changes in federal, state or provincial water quality laws, standards and regulations.

Water quality standards are the very foundation of most pollution control efforts throughout the Basin. The permits and control orders that the States and Provinces issue to dischargers are predicated on maintaining and improving the quality of water defined by standards, criteria and guidelines.

During the review of the 1978 Water Quality Agreement last summer and fall, municipal and industrial dischargers were silent. Unlike environmental groups, the regulated community was scarcely represented at the public hearings on the draft amendments. By contrast, in the ongoing debate in Wisconsin over a new package of standards and rules, dischargers have been extremely vocal, well organized and, in several instances, have persuaded the Wisconsin DNR to weaken the rules.

The regulated community was also very prominent in Michigan when that State's water quality standards were revised in 1986. And in Ontario, the government has given dischargers an even more prominent role than environmental groups in developing regulations under MISA, the Municipal and Industrial Strategy for Abatement.

The dischargers' silence during the review of the 1978 Agreement is a sad testament to the fact that the Water Quality Agreement just doesn't affect them. What really matters to them are the jurisdictions' laws, standards and regulations.

At the Water Quality Board meeting, Van Putten described some of the key provisions of Wisconsin's proposed rules that directly contradict the Agreement: The rules would allow polluters to dilute and dump their toxic wastes rather than treat them, and would encourage increased toxic water pollution. "Wisconsin rejected our proposal to freeze the dumping of the most dangerous toxics into the Great Lakes and their tributaries," Van Putten told the Board. "Instead, the Wisconsin rules will encourage new and increased dumping of toxics in violation of the Agreement's requirement of 'virtual elimination' of persistent toxic substances." The Wisconsin Campaign For Clean Water asserts that U.S. EPA, which is responsible for approving States' programs under the U.S. Clean Water Act, should reject the Wisconsin

rules in their present form.

Ironically, the governments are even shying away from the Agreement's provisions as they write Remedial Action Plans, which are specifically mandated by the Agreement! Some of the jurisdictions are arguing that the clean-up plans only have to meet State water quality standards, not the Agreement's more stringent Specific Objectives. Their opinion is that only the open waters of the Great Lakes are subject to the Agreement's requirements.

One way to combat the problems in these examples is by having the Water Quality Board review proposals from the jurisdictions for major changes in water quality programs. By promoting consistency between the Agreement and government programs, this review process would serve a number of func-

tions: it would help promote uniform regulations between the Great Lakes jurisdictions, which in turn would combat the playing of one state or province off another for jobs or economic expansion. It would help a state or province withstand pressure from polluters to weaken proposed water quality programs. Most important, it would move us closer to important Agreement provisions like the virtual elimination of persistent toxic substances.

But this review process is only part of the solution. As signatories to the Agreement, the onus of responsibility lies squarely with the two federal governments and their environmental agencies. All of the departments within Environment Canada and U.S. EPA -- not just the Great Lakes sections -- must use the Agreement's provisions as the

law of the land when writing and enforcing regulations. The federal agencies must also use their powers--to the fullest extent allowable under their respective constitutions--to get the States and Provinces to enforce the Agreement through domestic law.

What does it take to get governments and dischargers to take seriously the promises in the Great Lakes Water Quality Agreement? Great Lakes environmentalists must evaluate several options: the review process outlined in *Promises in Jeopardy*; ratification of the Agreement by Congress and Parliament; pressing for passage of enabling legislation and regulations; and, if necessary, litigation. Whatever options are pursued, one thing is clear: without citizens' continued vigilance, the promises of the Agreement are doomed to irrelevance. □

Citizens Decry Lake Michigan Clean-up Programs

Toxic chemicals are pouring into the Lake Michigan ecosystem from above, below and around the Lake, and programs to deal with the sources either don't exist or are inadequate, according to a report released by Great Lakes United, the Lake Michigan Federation and other citizens' groups. At simultaneous news conferences held around the Lake to release *Cleaning Up Lake Michigan: A Citizens' Agenda*, citizens decried the lack of programs to deal with toxics entering the Lake from the atmosphere or from the sludge lining the bottoms of the Lake and its tributaries. The report is the summary of a joint GLU/Lake Michigan Federation-sponsored Regional Meeting attended by 70 citizen leaders last spring.

Toxic chemicals in the Lake are the cause of long-standing advisories against eating fish, but increasing evidence suggests even deeper health problems. A Michigan study showed that babies born to mothers who ate contaminated Lake Michigan fish were smaller and suffered more neurological and developmental problems than babies whose moms ate little or no contaminated fish. We also know contamination has entered the food chain since colonies of birds from northern Lake Michigan are showing signs of reproductive failure and birth defects like clubbed feet and twisted beaks.

The report cites mounting evidence that the atmosphere is the largest single contributor of toxics to Lake Michigan: an estimated 57% (859 pounds) of the Lake's annual load of PCBs comes from the atmosphere as does 99.5% of the Lake's annual loading of lead. Many of the toxic substances that fall from the sky, including PCBs, benzo(a)pyrene (a carcinogen), DDT, cadmium and dioxins are not regulated under current U.S. clean

air programs.

According to Jane Elder of the Sierra Club, Congress's failure to reauthorize the U.S. Clean Air Act in 1988 means that Lake Michigan will continue to be "the unwilling catch basin for toxic substances washed out of the air. Hundreds of pollutants that are regulated on land, legally spew from smoke stacks to end up in the Great Lakes."

The report recommends establishment of a federal clean air program to control toxic air pollution in 1989. It should regulate emissions of air pollutants through standards based on protection of human health and sensitive ecosystems like Lake Michigan, as well as through the use of the best available control technology.

The sediments in many Lake Michigan tributaries and harbors are so contaminated from past discharges that they are now a source of toxics to the Lake. Tons of PCBs and other wastes line the bottom of the Kalamazoo River in Michigan and an estimated 200 pounds of PCBs ooze out and end up in Lake Michigan each year. Sediments in Waukegan Harbor are so contaminated with PCBs that samples from some spots showed as much as 500,000 parts per million --half PCBs! The toxic-tainted sediments on the bottom of the Grand Calumet River/Indiana Harbor Canal are up to 10 feet deep in some spots. According to Glenda Daniel of the Lake Michigan Federation, "finding technologies that can safely clean up toxic sludge looms as the greatest impediment to the success of Remedial Action Plans and other restoration programs."

The report recommends creation of a new federal program, dubbed "Aquafund," to focus resources and attention on the problem of contaminated sediments. There should be a ban on

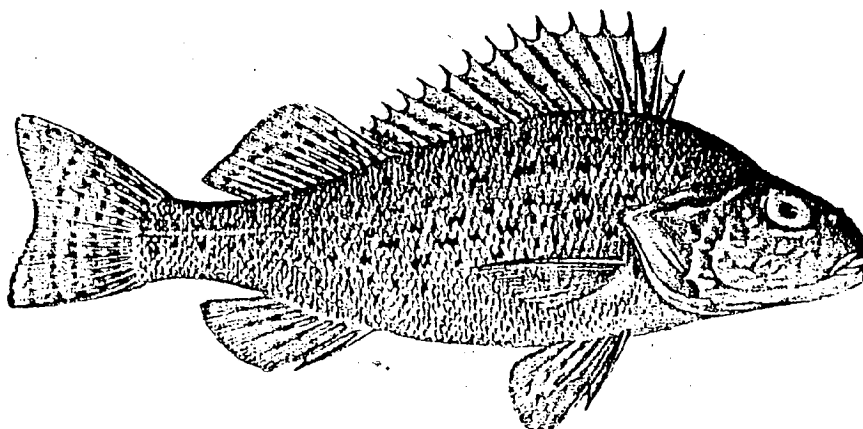
construction of in-water confined disposal facilities and those already existing should be examined for leakage.

Here are other findings and recommendations of the report:

- A government "strategy" to manage and reduce toxics in the Lake amounts to "institutional hypocrisy" because government agencies say that fish are contaminated and should not be eaten, while they also say that no further controls to reduce toxics are currently warranted.
- A new law passed by Congress in 1986, the Emergency Planning & Community Right-to-Know Act, gives citizens rights to track pollutants being discharged in their communities and to advocate steps to prevent chemical releases.
- State, local and federal governments must take steps to curtail construction and development in sensitive coastal areas, rather than attempt to manage shoreline erosion by diverting the Lake or constructing barriers.
- The Great Lakes Governors and Congress should investigate the federal administration's opinion that the U.S. Army Corps of Engineers has the authority to increase the Chicago diversion, if necessary. The Governors and Congress must institute legal safeguards to counter attempts to divert Lake Michigan, as proposed by Illinois Governor Thompson this summer.

The report is available from Great Lakes United or the Lake Michigan Federation, 59 East Van Buren, Suite 2215, Chicago, IL 60605, (312)939-0838. □

Which Fish Is This?*



Identify This News-making Great Lakes Fish and Win a Free Great Lakes United Hat!

*Send Your Answer to GLU. Answer in Next Issue.

Is Aquafund Part of A Sediment Solution?

Participants at the November 30-December 1 binational conference on contaminated sediments in Merrillville, Indiana will be focusing on current clean-up technologies and how to work them into an agenda that knows no political boundaries. Scientists, government agencies, elected officials, environmental groups and the private sector will cooperate to devise ecosystem strategies which can work anywhere.

The establishment of an "Aquafund" program at the federal level, provided it has the necessary funding resources, is a creative concept designed to address the contaminated sediments issue. An integrated national agenda is critical!

Great Lakes advocates are encouraged to discuss the Aquafund concept and other solutions at the conference. □



GLU Reports to Aid Citizen Efforts

Thunder Bay Report Due End of Year

By Jim Ahl, GLU Technical Analyst

Thunder Bay: a city surrounded by scenic North Woods forests and fronted by the clear blue waters of the world's largest freshwater lake. A city known for its nearby rich metallic ore deposits and its forest products and Great Lakes shipping industries. A city that is the hub of Canada's western Great Lakes tourism and natural resource industries.

Thunder Bay is one more thing: it is a city whose harbour is so contaminated with PCBs, mercury and toxic wood preservatives that it has been recognized as one of Canada's most polluted Great Lakes locales.

Under the Great Lakes Water Quality Agreement between Canada and the U.S., the International Joint Commission designated Thunder Bay and the Kaministiquia River as an Area of Concern (AOC), one of 22 such designated "toxic hot spots" in the province of Ontario and its boundary waters with the U.S. The Area of Concern initiated the Remedial Action Plan (RAP) or clean-up plan process, to devise ways to clean up the harbour.

A vital part of the RAP process is the involvement of the public and identification of the stakeholders in the Thunder Bay AOC. It is through this public consultation process that the water's impaired uses can be identified and a clean-up program developed and initiated. It is essential that citizens and organizational groups involved in the RAP have a clear understanding about the Control Order regulatory process and the effects on the ecosystem caused by the discharges of toxic contaminants.

To enhance Thunder Bay's citizen efforts to clean up their harbour, GLU is undertaking a site-specific review of the Thunder Bay Area of Concern and will be preparing a report, due in December, on existing impacts on the harbour's ecosystem. This report will provide citizens and organizations with the necessary background to review and recommend corrective actions for the Thunder Bay RAP. Levels of known acute and persistent toxic contaminants will be compared with the Water Quality Agreement Objectives.

International water quality objectives, as identified by the Water Quality Agreement, are not currently being met in the Thunder Bay-Kaministiquia River AOC due to impaired water uses caused by discharge of toxic contaminants and conventional pollutants. Also, Ontario Provincial Water Quality Objectives for bacteria and trace organic and inorganic contaminants continue to be exceeded. In accordance with the 1987 Protocol of

the Agreement, the parties -- Environment Canada and U.S. Environmental Protection Agency -- through provincial and state regulatory agencies, are called upon to develop Remedial Action Plans in the process of restoring such designated AOCs to their full beneficial uses. Therefore, the Ontario Ministry of the Environment (MoE), through their local Thunder Bay office, is responsible for developing a RAP for the Thunder Bay-Kaministiquia River.

The Kaministiquia River is the primary source of both toxic contaminants and conventional pollutants to the harbour and the northern shoreline of Lake Superior. These contaminants include trace organic compounds, chlorophenols, dioxins, furans, PCBs and organochlorines. Their discharge has resulted in adverse impacts upon the ecosystem of the Kaministiquia River, Thunder Bay harbour and Lake Superior.

The Water Quality Board, in its 1987 *Report on Great Lakes Water Quality* (Appendix A) states, "There are eight major industrial point sources of pollutants to Thunder Bay, including four pulp and paper mills, a thermal generating station, a wood preserving operation, a chemical manufacturer and a flour processing plant." Discharges from forest products industries have been identified as the primary cause of the harbour's degraded water quality. Another source of contaminants is the confined dredge disposal site that was constructed in 1978. This site contains sediments dredged from the Kaministiquia, McKellar and Mission Rivers and contain high levels of mercury discharged from a Dow Chemical plant. Due to elevated levels of PCBs, the decision was made to place these contaminated sediments in the disposal site, rather than open lake disposal. This site requires thorough investigation to determine if the toxic contaminants are confined or are leaching into the harbour's waters.

Pulp and paper effluent discharges to the Kaministiquia River continue to result in adverse impacts on the water, sediments, benthic organisms and fish. High concentrations of non-conventional contaminants and depleted dissolved oxygen levels are typically found in the river's waters, especially in the vicinity of the pulp and paper mills. The largest point source discharge is from the Great Lakes Forest Products pulp and paper mill complex. The greatest numbers of pollution-tolerant benthic organisms are found near the facility's outfalls and gradually decrease in number as they travel downstream. Organisms such as tubificid worms are



Thunder Bay's industrial waterfront

typical of waters with low oxygen levels and organically-enriched sediments.

The three Abitibi pulp mills, consisting of Abitibi-Price Thunder Bay Division, Abitibi-Price Provincial Paper and Abitibi-Price Fort William Division, are currently under Ontario Ministry of the Environment Control Orders for BOD (Biological Oxygen Demand) and suspended solids. Control Orders have also been issued for the Great Lakes Forest Products Ltd. and the Northern Woods Preservers Inc. facilities, the latter having been identified as a source of

dioxins, furans, pentachlorophenol and creosote. Although these new Orders have established lower discharge limits for conventional pollutants and some of the known toxic substances, more stringent controls are necessary so as to be in conformance with the Water Quality Agreement Objectives.

After the report is released, area citizens and organizations will have a valuable tool. They will be able to more effectively analyze and provide input so that the public's concerns will be addressed as fully as possible. □

Algoma Steel Is Focus of St. Marys Report

Local citizens and grassroots organizations actively participating in the St. Marys River Remedial Action Plan (RAP) will soon have a citizens' guide prepared by GLU. This report, entitled *Citizens' Guide: St. Marys River Point Sources of Toxic Chemicals - A Review of Algoma Steel, Inc. Control Order*, has been prepared to assist citizens in developing a RAP for the St. Marys River Area of Concern (AOC).

The report is the second of three site-specific reviews conducted by GLU during the past eight months. The aim of these reviews is to provide citizens with a basic understanding of the effects of toxic contaminants upon the ecosystem and a better knowledge of governmental regulatory procedures. Additionally, the reviews are a useful tool to clearly understand the role of the Great Lakes Water Quality Agreement, as applied to particular Great Lakes toxic sites and pollution problems.

This review of the St. Marys River AOC presents a portion of the scientific and technical information concerning known adverse impacts upon the River's ecosystem caused by the discharge of toxic substances. GLU identified the Algoma Steel, Inc. facility as being a primary source of toxic contaminant discharges, both to the air and water. These discharges have resulted in adverse impacts, not only upon the air and water of the Sault Ste. Marie area, but also downwind and downstream in the Basin.

GLU has determined that the concerns expressed by several local citizens and grassroots organizations regarding the discharge of toxic contaminants by the Algoma facility are well-founded. Also, the authorization to re-open Coke Oven Battery #7 by the Ontario Ministry of Environment was approved without a viable or meaningful citizen input process. Economic considerations and the threatened loss of 700 jobs overrode any concerns expressed by local citizens regarding coke oven emissions of polyaromatic hydrocarbons (PAHs), especially the highly carcinogenic

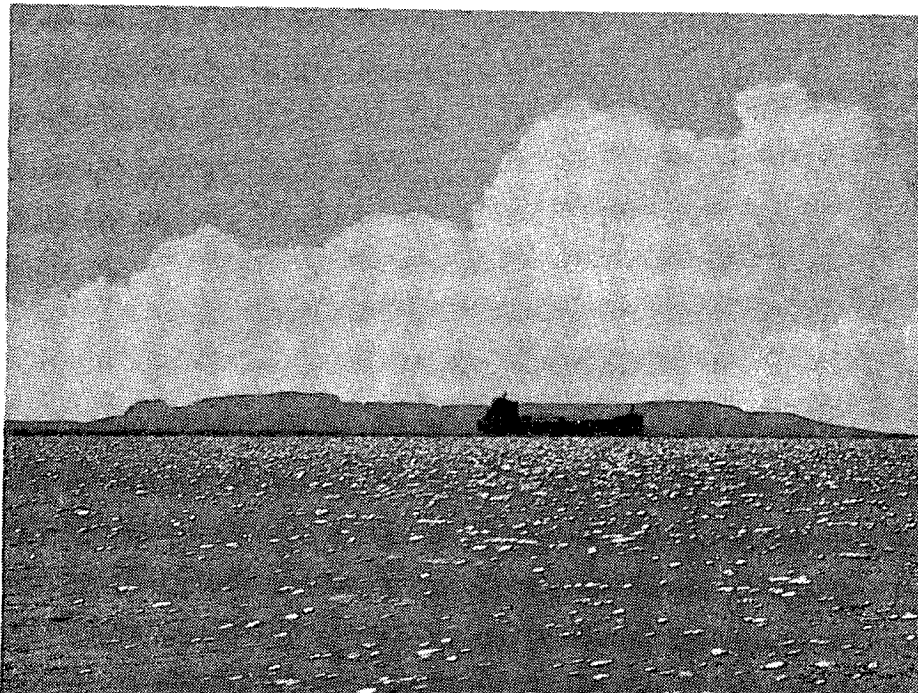
benzo(a)pyrene. The Ministry's Control Order does not specify limitations on these discharges but, rather, limits particulate emissions. Based on Algoma's past history of continuing discharges of particulate emissions in contravention to the 1986 Control Order, GLU is very concerned that the agency did not address the PAH emission problem that exists in coke oven emissions.

GLU also discovered that toxic discharges from Algoma's terminal basin, located approximately one mile from the plant and adjacent to a senior citizens' facility, were of grave concern. Effluent from the terminal basin contain phenols, PAHs, oils and greases. Only a portion of the solids, oils and greases are allowed to settle out prior to their discharge into the St. Marys River. The sludge that does settle out is scooped up and allowed to dry within the terminal basin prior to its being taken to Algoma Steel for use as fuel. Not only does this permit volatilization to take place in the basin, but it permits PAH emissions during the fuel burning process!

It had been anticipated that this report would be able to utilize valuable scientific data generated by the Upper Great Lakes Connecting Channels Study. Its completion, however, did not take place in time for its incorporation within this site-specific review for the St. Marys. Citizens and grassroots organizations within the St. Marys AOC are encouraged to review the documents when they are made available.

The St. Marys Citizen Guide concludes with a series of recommendations which GLU has identified as being essential ingredients in the RAP process. These recommendations will greatly assist in working toward the goal of virtual elimination of toxic contaminants in our Basin's ecosystem.

All participants on the RAP Committee and the Binational Public Advisory Council (BPAC) will be provided copies of the report. Other interested parties may obtain a copy from Great Lakes United. □



Sleeping Woman Mountain and commercial ship, as seen across Thunder Bay



Will Actions Follow Canada Election Promises?

By John Jackson,
Ontario Toxic Waste Research Coalition

Election time is just over and the promises of dollars have been flowing around the Great Lakes. Canada's New Democratic Party promised \$100 million per year from the federal coffers for the cleanup of all Canadian sources of pollution to the Great Lakes; they also promised money towards upgrading sewage facilities. The Liberals promised \$200 million over five years for Great Lakes programmes and money for sewage treatment facilities. The Progressive Conservatives promised \$125 million over five years for Great Lakes programmes: \$75 million for cleaning up hot spots and \$50 million for research and technology development.

These pledges were in response to strong messages from the Canadian public. Opinion polls show that "environment" and "free trade" were the two primary election issues on Canadians' minds. A nation-wide poll released in August found that almost four out of five Canadians are willing to support a special environment tax and to pay more for "environmentally safe" products.

This poll also showed public dismay over the lack of government attention to environmental problems. Eighty-four percent of the respondents said that "governments here in Canada should be doing more."

The recent record of the Canadian government gives plenty of reasons for the public to doubt the government's commitment to correct environmental problems. Important Great Lakes programmes have been cut back over the past few years. The herring gull programme, aimed at assessing the extent and impacts of toxic contamination

in the Great Lakes, has been seriously reduced. Federal financial support for sewage treatment projects has been dropped. Research budgets have been substantially cut, drastically reducing morale at the Canada Centre for Inland Waters, Canada's major research facility on Great Lakes issues.

In the past three years, the number of jobs within Environment Canada has been reduced by 388 and another 361 positions are slated to be removed in the next two years.

These actions over the past few years contradict the professed determination of the government to clean up the Great Lakes. A year ago the Canadian and U.S. governments renewed their commitment to clean up and protect the Great Lakes when they signed amendments to the Great Lakes Water Quality Agreement. But, significantly, their speeches at the time of that signing included no financial commitments for programmes to carry out the promises.

Will the financial promises just made result in a real difference? That partly depends on whether these were more than empty election-time promises. Is \$125 million, \$200 million or even \$500 million over the next five years more than a drop in the bucket to address the serious problems confronting us in the Great Lakes? Clearly the answer is that, by itself, money would be just a beginning. It will take more than money to clean up the Great Lakes. It will require strong legislation, regulations and enforcement to require polluters to achieve our agreed upon goal of "zero discharge" of persistent toxic substances. □

Lawmakers to Meet at Great Lakes Conference

Great Lakes water diversions and water quality will be the focus of a Chicago conference that will attract 50 to 60 lawmakers from throughout Ontario, Quebec and the eight Great Lakes states. The "1988 State and Provincial Caucus on Great Lakes/St. Lawrence River Water Issues," sponsored by the Center For the Great Lakes, will be held on December 15-16, 1988 in the Westin Hotel, Chicago.

Topics include lake level predictions, the Great Lakes Charter on Diversions, the Great Lakes Water Quality Agreement, Great Lakes Toxics Agreement and Great Lakes Protection Fund. Top officials of the U.S. EPA, Environment Canada, Council of Great Lakes Governors, Ohio Gov. Richard Celeste and others will report. Fee is \$70-U.S., \$82-Canadian. Call The Center For the Great Lakes, (312) 645-0901 for information. □

In the Public Interest

By Richard J. Lippes and Paul Muldoon

Q: A government agency recently initiated a suit against an industrial polluter whose landfill continues to leach dangerous chemicals which are affecting the quality of the community's water supplies, as well as causing other environmental harm to the detriment of the local tourist business. We are afraid the government is not pursuing the action as rigorously as it could and that the final Remedial Action Plan emanating from the suit will not be sufficient to protect the environment. As a community-based environmental organization, what can we do?

A: In last month's column, we focused on the right of an environmental organization to initiate a lawsuit against a company that is leaching dangerous chemicals that are adversely affecting the quality of a community's water supplies and causing other environmental damage. We specifically dealt with the right of an organization to intervene in an existing government lawsuit to assure that any judgment rendered properly protected the rights of private citizens and the environment. We also mentioned that the organization could start its own lawsuit, assuming that it could allege proper "standing" to bring such a lawsuit, or where a statute may allow taking such an action.

In addition to intervention or a private lawsuit by an environmental organization, private individuals that are not members of an organization do not have to sit by and watch their environment being polluted to the detriment of their health. The law of both the United States and Canada allows individuals who have been injured by exposure to a toxic chemical or who have lost the use and enjoyment of their property due to its contamination, to sue the polluter for both money damages to compensate them for their injuries, and also to sue to stop any continuing harm through such contamination. Unlike the lawsuit to stop a "public wrong" on behalf of the entire community that we discussed last issue, the intent of this lawsuit is to

stop the "individual and private wrong" that has been done to the individuals bringing the lawsuit, and to compensate them for damages received. Of course, by stopping the contamination to the individuals bringing the suit, that is, the plaintiffs, such a lawsuit also benefits everyone else.

In order to proceed with such a lawsuit, the plaintiffs must be able to prove that personal or property exposure to hazardous chemicals has occurred. This is often done by showing that the chemicals have polluted the plaintiffs' drinking water supplies by invading the groundwater or surface waters from which the water supplies come, or that the chemicals are actually leaking onto their property. Once exposure has been established, the plaintiffs can be compensated for any damages that have been caused by such exposure. These often include compensation for any injury or disease caused by the exposure, for any diminution in property value, and for any loss of enjoyment of the property or inability to use portions of it, more commonly called the "loss of quality of life." In addition, in some states of the U.S., plaintiffs can sue to be compensated for the increased risk of future disease caused by the exposure, or for funds to medically monitor the plaintiffs' health due to such enhanced risk.

Finally, if it can be shown that the contamination is continuing, the plaintiffs have the right to seek an abatement of the pollution by the defendant. This will generally entail cleanup of the polluted area, better controls to cease any continuing pollution, and may include provision for alternate water supplies if the plaintiffs' present drinking water is contaminated.

Therefore, whenever there is a significant hazardous chemical leak into the environment, private citizens and environmental organizations should consider the broad range of clean-up and compensation remedies available to them through a successful lawsuit, in addition to taking action by working through government agencies. □

Consent Decrees: Polluters Must Pay

Outboard Marine Corp. (OMC) agreed Oct. 7 to spend \$20 million to clean up PCB contamination of Waukegan Harbor. The settlement ends ten years of hard-fought litigation over the Superfund site (U.S. vs. Outboard Marine Corporation).

Between 1961 and 1972, OMC released an estimated one million pounds of PCB-contaminated hydraulic fluids into and around Waukegan Harbor, making it one of the most polluted sites in the Great Lakes Basin.

Under the decree, OMC will remove contaminated sediment from Slip 3 -- the most heavily polluted area -- and will remove less contaminated sediments from the upper harbor and place them in Slip 3. OMC will then permanently isolate Slip 3 with a wall and construct a PCB thermal treatment system. In addition, OMC will place the treated sediment in two new enclosures on its property. The cleanup, supervised by EPA, is expected to be completed by 1992.

In another major settlement, owners of the Clinton Reef Marina, near Toledo, Ohio, will pay a \$172,500 fine for violating permit conditions, the Rivers & Harbors Act of 1899 and the Clean Water Act. The consent decree was one of the largest ever for this type of violation. The action, was brought by the U.S. Army Corps. of Engineers, because the defendants were creating obstructions and

discharging pollutants in the Portage River.

The marina violated its permit because its "jetties were constructed longer and wider than authorized, unauthorized docks were installed and required water-circulating culverts were never installed." □

Report Addresses Diversion

Diversion of Great Lakes Water, Part 2: Economic Impacts was released by the the Institute for Environmental Studies and the Sea Grant Institute, UW-Madison. It accompanies the first (1987) volume that addresses hydrologic impacts of diversion. It concludes that a moderate (10,000 CFS) diversion would cost the industries \$70 to \$90 million annually, while a larger diversion could cost \$250 million. Copies are \$4. Contact UW Sea Grant Institute, 1800 University Ave., Madison, WI. 53705, (608) 263-3259. □

LAKE LEVEL UPDATE

The decline in Great Lakes water levels continued for all the lakes. October 21, 1988 levels recorded by the Department of the Army were:

	Change from record October high	Since last Oct. 21, 1987
Lake Superior	-21 in. (1985)	-2 inches
Lake Mich.-Hurr.	-42 (1986)	-13
Lake St. Clair	-37 (1986)	-13
Lake Erie	-34 (1986)	-14
Lake Ontario	-27 (1945)	+3

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Phone: () _____ Zip/Postal Code: _____

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Would you be interested in volunteering for Great Lakes United?
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Time Available? _____

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For more information, write to the above address or call (716) 886-0142

THE GREAT LAKES UNITED

Congress and the Great Lakes: What's Passed and What's Ahead?

By Jane Elder,
Midwest Director, Sierra Club

The 100th Congress adjourned with a mixed bag of accomplishments for the Great Lakes.

CLEAN WATER

Congress' most significant act was overriding President Reagan's veto of the Clean Water Act early in 1988. The Great Lakes language in the Clean Water Act represents one of the larger strides forward in federal law for the Great Lakes. It established authority in the EPA for U.S. compliance with the Water Quality Agreement with Canada and called for demonstration projects for toxic sediment cleanup at five sites in the Great Lakes Basin. It also authorized \$11 million in new money for carrying out these programs, although the appropriation levels fell short of these goals in both FY 88 and FY 89.

In early 1988, Great Lakes leaders testified before Congress on the need for a federally-funded toxic sediment cleanup program, dubbed "AquaFund." No legislation was introduced this year, but we are optimistic that model legislation for an "AquaFund" will be introduced to the 101st Congress.

APPROPRIATIONS

In spite of the Gramm-Rudman Act and the dark forces at Office of Management & Budget, Great Lakes appropriations inched forward to their highest levels yet in FY 89. Sadly, these hard-fought victories fall far short of needs for significant increases in research and enforcement. Buying power for federal programs has shrunk to 23% of 1980 levels. Staff shortages, aging facilities and inflation have all taken their toll on research programs. The pork-barrel fight over the authorized Great Lakes Research Office ensured its death in the FY 89 appropriations process. In spite of the recognized value of such a program, the tug-of-war on proposed sites for the facility pulled apart its chances for being established.

Senator Proxmire (D-WI) led the fight to require EPA to hire ten new people to staff the newly required Great Lakes programs. However, the OMB has so far resisted releasing funds obligated for this purpose. The final result: \$22.3 million was appropriated for all Great Lakes research and enforcement programs.

AIR TOXICS

A flurry of activity in the closing weeks of the 100th nearly produced a Clean Air Act, but in the end it was punted to the 101st Congress. Great Lakes leaders can take pride in their work to persuade Congress to enact new toxic air pollution controls. Senator

David Durenberger's (R-MN) aggressive package of amendments to the Clean Air Act (known as "Title V") remained largely intact during the scramble to find a workable compromise on acid rain and smog. Title V has come under heavy attack from chemical manufacturers, the hydrocarbon industry and solvent users such as dry cleaners. Many sought to delete it entirely from the Clean Air Act reauthorization package.

Title V is likely to remain the working language in next year's Clean Air Act draft. Despite the mounting evidence of toxic air pollution impacts in the Great Lakes, Durenberger received little political support from his Great Lakes colleagues—something that will have to change if the bill has any chances of passing next year.

COASTAL BARRIERS

One of the last bills passed by the 100th Congress was the Disaster Relief & Emergency Assistance Amendments Act. The final version of the Great Lakes section of the Act is considerably weaker than the bill which passed the House in March. The Great Lakes amendment, offered by Senator John Glenn (D-OH), gives the Department of Interior three months to map sensitive Great Lakes shoreline areas for possible inclusion in the National Coastal Barrier Resources System. If the Congress decides to add them to the System, these areas would be prohibited from receiving federal subsidies that encourage coastal development. The final bill authorizes \$2 million to be used by states for emergency assistance grants, down from \$100 million over five years in the House bill.

Meanwhile, while hardly anyone noticed, ownership of dozens of small Federal Bureau of Land Management islands in the Michigan waters of the Great Lakes were transferred to the State of Michigan. Expect to see similar legislation from other states next year.

PESTICIDES

A thoroughly watered-down reauthorization of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) breezed through both Houses late in the session, but it was so lacking in new regulatory programs that it was quickly named "FIFRA-Lite" on Capitol Hill. The main component of the new law is a process to speed up the testing of hundreds of pesticides that were already on the market when FIFRA was enacted in 1972. But most of the tough issues were simply avoided, so a package of amendments is very likely in the 101st Congress.

MEDICAL WASTES & OTHER UNPLEASANT SUBJECTS

After a long, disgusting summer on

our nation's beaches, Congress acted to control ocean dumping of sewage sludge and the disposal of medical waste. The ocean dumping bill prohibits dumping of sewage sludge after 1991, and sets up a schedule of fees and fines for violations. The medical waste bill sets up a demonstration project for tracking and handling these wastes in New Jersey, Connecticut and the Great Lakes states. It provides for civil penalties of \$25,000 per day of violation and criminal penalties of \$50,000 per day.

The "killer plastic" bill to require plastic six-pack holders to be made of biodegradable materials was also sent to the President for his signature at the end of the session. Wildlife, from eagles and loons to seals and otters, perish after becoming entangled in this litter.

Despite last minute negotiations between the House and Senate, legislators were unsuccessful in enacting a bill to reduce hazardous waste in the manufacturing process.

TOXIC SUBSTANCES

The Senate made an attempt to tighten regulation of PCBs by shifting authority from the Toxic Substances Control Act to the Resource Conservation & Recovery Act, or, in shorthand, from TOSCA to RCRA, which is much more specific in its requirements.

Expect renewed attention to RCRA in the 101st. Hearings were held at the end of the 100th, testing the political climate

for the next big reauthorization battle. With both Clean Air and Hazardous Waste high on the list for Congressional attention in the 101st, environmental lobbyists and their champions in Congress will be very busy.

PARKS AND WILDERNESS

The National Wilderness System now includes two Great Lakes shorelines and an island in the Straits of Mackinac, following passage of the Michigan Wilderness bill in late 1987. These areas join Isle Royale and two tiny wildlife refuge island groups as the only federally-protected Great Lakes Wilderness Areas.

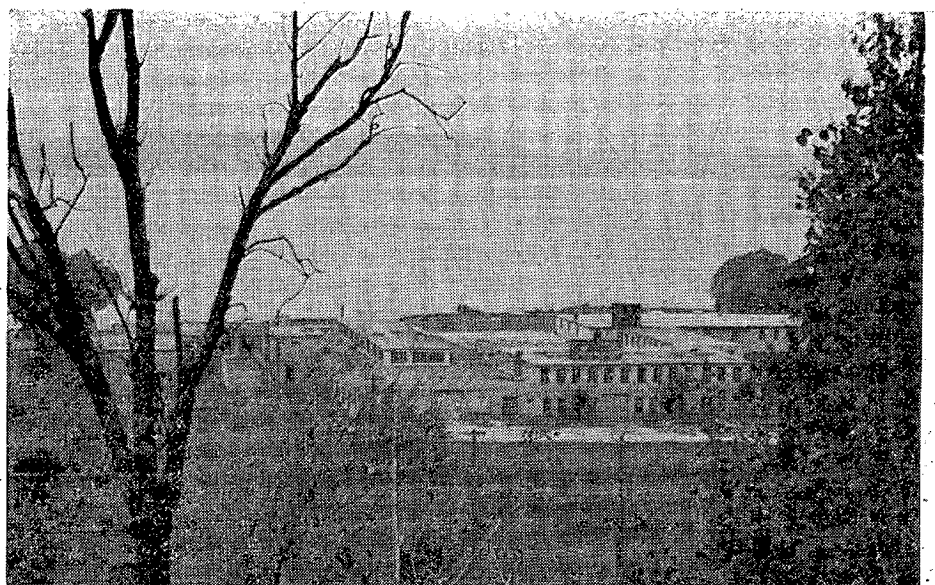
DIVERSIONS

Back, you diversions, back, I say! The drought sent nearly everyone in search of more water, including the Chicago Sanitary District and the Senators from the lower Mississippi River Basin. In a mutual flex of political muscle, the southern Senators, with Illinois Senators Simon and Dixon in tow, held a press conference calling for increased diversions of Great Lakes water to fill the shrinking Mississippi. They were countered by the Great Lakes Senators' own press conference, saying "no way." Lake level watchers can expect some new angle to develop in the next Congress (one always does). Keep your eyes on the next Water Resources bill, and also on the State of Illinois. □

ANNUAL MEETING ON BEAUTIFUL GEORGIAN BAY

Owen Sound, Ontario, the largest city on Lake Huron's Georgian Bay, will host GLU's Seventh Annual Meeting May 5-7, 1989 at the campus of Georgian College. Participate in setting GLU's direction for the forthcoming year. Tackle hot, new issues. Enjoy the workshops, exhibits and fun social events.

JOIN US AND HELP US KEEP THE GREAT LAKES GREAT!



View from bluff overlooking scenic Owen Sound, site of GLU's May Annual Meeting

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