

International Joint Commission
Canada and United States



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Canada et États-Unis

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Re.: Lake Superior Binational Program

Dear Dr. Hedman and Mr. Goffin,

On November 4, 2015 U.S. EPA and Environment Canada corresponded with the International Joint Commission (IJC) and others inviting input on the status of the Lake Superior Binational Program (LSBP), which the Parties are reviewing in light of the 2012 Great Lakes Water Quality Agreement. We offer our observations and suggestions herein.

In its 5th Biennial Report on Great Lakes Water Quality in 1990, the IJC recommended that “the Parties designate Lake Superior as a demonstration area where no point source discharge of any persistent toxic chemical will be permitted.” The Parties accepted this challenge and launched *A Binational Program to Restore and Protect the Lake Superior Basin* to which the Parties, the states of Minnesota, Wisconsin and Michigan, and the Province of Ontario are signatories. The IJC report singled out Lake Superior because it was experiencing, and continues to experience, the fewest chemical, biological and physical perturbations of all the lakes. The Commission continues to believe that an ongoing priority focus on protecting the high existing resource values of Lake Superior is warranted

The Commission notes that the LSBP has met with considerable success and congratulates the governments on their progress in the Lake Superior basin over the last quarter century. We hear from several Lake Superior stakeholders that they value the progress made and the partnerships developed through the LSBP. The LSBP is unique among programs in the Great Lakes insofar as it committed the governments to a series of policies and actions to support several key initiatives, including the Lake Superior Zero Discharge Demonstration Program (ZDDP), special protection designations, and controls and regulations, within a broader program to restore and protect the Lake Superior ecosystem.

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Although recent correspondence from the Parties suggests that the LSBP will not be formally discontinued, we are concerned about some aspects of the proposed integration into the Lakewide Action and Management Plan and we offer the following considerations for moving forward.

1. Enhance transparency in how elements of the LSBP get integrated into the Lakewide Action and Management Plan (LAMP)

The IJC agrees with the observation that many of the commitments in the LSBP were time-bound and that the identified timelines have long passed, with many, but not all, of those time-bound commitments addressed. We can appreciate the rationale behind the Parties suggestion that those unaddressed elements of the LSBP that continue to have currency should be addressed through the LAMP. Prior to deciding whether to functionally discontinue the LSBP, as is suggested in the November 4th correspondence, **we recommend that the Parties report on the progress made towards each of the individual Policy and Action commitments contained in the LSBP. We further recommend, that, in so doing, the Parties note which goals, policies and actions would be continued through the Lake Superior LAMP.** The Commission believes that this evaluation would not only greatly inform the Parties' discussion regarding functional discontinuation of the LSBP but also would demonstrate transparency and accountability in the Parties' decision-making.

The Commission believes that several of the principles and goals of the LSBP are still very relevant and that affording Lake Superior special status in the context of the entire basin has been an important contributor to the success of the program. Accordingly, **we recommend that the Parties elaborate for the LSBP partners and stakeholders how they intend to maintain special emphasis on Lake Superior's unique features and high quality waters moving forward.**

2. Continue the Zero Discharge Demonstration Program (ZDDP)

Arguably, the most important contribution of the LSBP has been the ZDDP. The periodic *ZDDP Milestones* reports provide excellent summaries of the progress towards zero release of the nine designated persistent, bioaccumulative toxic substances in Lake Superior. In the Commission's opinion, it is essential that the ZDDP be continued through to its current completion date of 2020.

The Commission notes that only two of the nine ZDDP critical pollutants have been put forward by Annex 3 for designation as Chemicals of Mutual Concern. Your recent correspondence notes that because "the ZDDP is not entirely consistent with the current GLWQA (chemicals of mutual concern), discussions will be required with the GLWQA Annex 3 (Chemicals of Mutual Concern)..." We agree that the Parties should clarify how the remaining seven ZDDP critical pollutants will be addressed through the Annex 3 process or through processes unique to Lake Superior. **We also recommend that a review and evaluation of the ZDDP be completed as 2020 approaches, and a strategy be developed to accomplish any unfulfilled commitments of the ZDDP from 2020 onwards, should any remain unfulfilled.**

The Commission notes that inclusion of the ZDDP in the *Canada-Ontario Agreement on Great Lakes Water Quality and Ecosystem Health* is consistent with the LSBP commitment to identify “parallel action plans for the portion of the basin in the United States and the portion in Canada”. Since the ZDDP relies heavily on domestic implementation to achieve zero discharge, a comparable and current U.S. commitment would be appropriate.

3. Confirm Approach for Outreach and Engagement to Respect Original LSPB Commitment

The Commission encourages the Parties to continue to engage and reach out to the public in the Lake Superior Basin including constituencies who are interested in maintaining progress towards zero-discharge of the nine critical pollutants. The LSBP includes several references to public engagement, including the commitment that “(t)he Taskforce will continue to seek public involvement through the Stakeholders Advisory Forum”. In light of the Parties’ more recent decision to discontinue the Lake Superior Binational Forum, there is an urgency for the nascent Lake Superior Partnership’s Outreach and Engagement Committee to confirm and describe its approach and timeline for broad-based public involvement in decision making in order to respect the original LSPB Commitment.

We trust these comments will be helpful to the Parties and others working to restore and maintain the chemical, physical and biological integrity of Lake Superior. Consistent with its current policy, the Commission will make these comments available to the public.

Sincerely,



Lana Pollack
Co-Chair
U.S. Section



Gordon Walker
Co-Chair
Canadian Section

- cc. Chris Korleski, U.S. EPA and Co-Chair, Lake Superior Partnership Management Committee
Susan Humphrey, Environment Canada and Co-Chair, Lake Superior Partnership Management Committee
Christopher Wilkie, Foreign Affairs Canada
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