



**Testimony of Emily Green
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On the Great Lakes Legacy Act

**Before the Water Resources & Environment Subcommittee
U.S. House Transportation & Infrastructure Committee
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Good morning Madame Chairwoman and members of the Committee. Thank you for giving me the opportunity to speak with you today. The Sierra Club is the nation's oldest and largest grassroots organization, with over 1.5 million members and supporters nationwide. For the past 30 years, we have been a strong advocate for the restoration and protection of the Great Lakes ecosystem. The Sierra Club Great Lakes Program works to turn back specific threats to the region's waters and the communities that they support. To achieve this goal, eliminating the legacy of toxic chemicals in the Great Lakes has been one of our top priorities.

I am here in Washington today to ask for your help in addressing this toxic legacy. The Great Lakes Legacy Act of 2002 has been an extraordinarily successful program—its main limitation has been the lack of full funding. I am here to speak in favor of legislation reauthorizing this program this year, increasing the authorized funding level, and making some minor policy changes to further increase its effectiveness.

It is critically important that this legislation move forward this year to avoid gaps in the implementation of this program and to allow us to more effectively address one of the worst problems that our region faces. Reauthorizing the Great Lakes Legacy Act is one of the major recommendations of the Great Lakes Regional Collaboration Strategy, a comprehensive plan to restore the Great Lakes, crafted by over 1,500 citizens, public officials, scientists, business representatives and conservationists.

We have the tools and the knowledge to address this toxic legacy, and we know that the Great Lakes Legacy Act works. Now we need the political will and the funding to expand and fully implement this successful program.

The Challenge of Toxic Sediments

There are 42 rivers and harbors in the Great Lakes Basin that the U.S. and Canada designated as Areas of Concern (AOCs). All of them contain toxic hotspots. For the last four or more decades, the sediment hotspots in these and other areas have leached toxic chemicals into the lakes, contributing to the pollution of fish, wildlife, and people living in the basin.

Research in our region has yielded reams of data on the ecological and human health impacts of this contamination. These include tumors and impaired reproduction in fish, birth defects and impaired reproduction in fish-eating birds and mammals, like cormorants, bald eagles, terns, and mink, and increased cancer risk in people. Researchers have found higher levels of PCBs in the blood of people living around the Great Lakes as compared to the rest of the nation. They found that children born to mothers with the highest levels of PCBs in their blood have slightly decreased IQs and were as much as two years behind their less-exposed peers in reading and math skills. These impacts are well documented and urge action on our part to prevent their continued occurrence.

In addition to their well-documented impact on human health and the environment, Great Lakes toxic hotspots have placed a major burden on the region's economy. Toxic pollution has increased the cost of, and in some cases prevented, the redevelopment of urban waterfronts in places like Waukegan, Milwaukee, Detroit, and Buffalo. A recent Brookings Institute study found that cleaning up toxic pollution in Areas of Concern will directly raise coastal property values by \$12 billion to \$19 billion.¹ Another study found that cleaning up contaminated sediments in the Buffalo River AOC would increase property values near the river by up to 16 percent, or \$790 million. The same study estimated a local property value increase of roughly 10 percent, or \$234 million, from cleanup of the Sheboygan AOC.²

Toxic pollutants in the sediment of every major Great Lakes port and industrial harbor have vastly increased the costs of navigational dredging. The toxic muck coming out of many of our harbors every year must be contained, at a cost at least 3 – 4 times the cost of dredging clean sediments. According to the Army Corps of Engineers, over half of the roughly 4 million cubic yards of dirt dredged out of navigation channels in the Great Lakes every year must be contained, treated, or managed in some way. If this sediment were clean, the disposal cost would be closer to \$5 per cubic yard, significantly less than the \$10 - \$20 per cubic yard for management and containment. Clean sediments would yield annual savings somewhere between \$11 and \$34 million dollars.

Toxic hotspots have increased shipping costs. Difficulties finding a place to put polluted dredge spoils, low water levels, and shortages in funds allocated to harbor maintenance have resulted in significant dredging backlogs. Ships going in and out of ports that are not fully dredged routinely carry less cargo than they are capable of holding to allow the ships to ride higher in the water. This practice of lightloading can cost thousands of dollars, as a 1000' long ship leaves 500,000 pounds of cargo on shore to accommodate each additional inch of draft. These challenges will get worse as Great Lakes water levels are expected to continue to drop, making it more important than ever to clean up the hotspots that contaminate our harbors.

¹ Austin, J., et al, *America's North Coast: A Benefit-Cost Analysis of a Program to Protect and Restore the Great Lakes*, September 2007.

² Braden, J.B. et al, *Economic Benefits of Sediment Remediation*, December 2006.

The fishing industry has been damaged by contaminated sediment. Polluted sediments are the major source of toxic chemicals in fish, and the reason for fish consumption advisories in the Great Lakes. Pollutants in fish have shut down some commercial fisheries in the Great Lakes, and the presence of consumption advisories has decreased recreational fishing and cut into the charter boat industry. This affects many associated industries, from tackle, bait, and outdoors stores to the broader tourism industry. The Environmental Impact Statement for the Fox River cleanup estimated that toxic sediments in the Fox River and Green Bay cost northeastern Wisconsin \$65 million in lost recreational fishing and associated tourism revenues between 1981 and 1999. But the study also noted that these losses could be turned around by removing the contamination and lifting the fish consumption advisories.

We are only just now beginning to understand and assess the impact of these losses on our economy. But it is clear from the data that we do have that it is worth it to act to address this problem. The Great Lakes are an incredible resource, but they could be much more without the negative impacts of their legacy of toxic chemicals.

The Role of the Great Lakes Legacy Act

The Great Lakes Legacy Act has helped to resolve the single greatest barrier to getting rid of the toxic legacy in the Great Lakes – the lack of adequate funding. Historically, we struggled to find the resources and authority to clean up toxic hotspots because they fell through the gaps of our environmental laws. While some sites have been addressed through Superfund, the Water Resources Development Act and other programs, most Great Lakes sediment sites fell through the gaps until Congress passed the Great Lakes Legacy Act of 2002, which authorized \$270 million from fiscal years 2004 through 2008 to clean up toxic sediments in AOCs.

The Legacy Act has not been fully funded since it was passed in 2002. However, despite the funding shortfall, the program has made a significant difference to the Great Lakes. The federal government has spent \$55.4 million since the program began to clean up toxic hotspots in five Areas of Concern and monitor and evaluate projects at seven additional sites. The five cleanups have removed almost 2 million pounds of toxic contaminants from Ashtabula, Ohio; Sault Ste. Marie, Ruddiman Creek and the Black Lagoon in Michigan; and Hog Island, Wisconsin. The Legacy Act has allowed cleanups to move forward that otherwise had languished for years.

For example, local citizens advocated for the cleanup of Ruddiman Creek and Pond in Muskegon, Michigan for years. Great Lakes Legacy Act funds enabled the cleanup to finally move forward—EPA and the Michigan Department of Environmental Quality completed the cleanup in 2006, removing 26,000 pounds of lead, 2,800 pounds of cadmium, 204,000 pounds of chromium, and 320 pounds of PCBs from the creek. This creek had been posted as “no swimming, no fishing, no recreation” because of the human health risk posed by the contamination. By dredging and removing 90,000 cubic yards of contaminated sediments, the agencies were able to improve water quality, restore natural water flow patterns, and improve natural habitat by replanting the creek banks with native

flowers, trees and grasses. The cleanup removed a significant threat to human health, reduced the toxic pollution flowing into Lake Michigan, and restored a natural asset in the city of Muskegon. Local citizens have said that even lake salmon have now returned to the creek.

Reauthorizing and expanding the Great Lakes Legacy Act is the top recommendation of the Great Lakes Regional Collaboration Strategy, with respect to cleaning up Areas of Concern. A strong collaboration of industry, environmental organizations, agency staff and scientists came together through the Great Lakes Regional Collaboration and are in agreement on the recommendation to reauthorize and expand the Legacy Act. The Sierra Club was part of this consensus and strongly recommends that Congress pass legislation this year that reauthorizes the Legacy Act and includes the following key elements:

- Increase the authorization level to \$150 million per year and reauthorize the act through 2013—this is the level of funding that the Great Lakes Regional Collaboration partners deemed necessary to complete the cleanup of Great Lakes Areas of Concern;
- Add a habitat restoration component so that we can bring a site back to full recovery after completing a cleanup;
- Allow Potentially Responsible Parties (PRPs)—industries that may be responsible for the toxic pollution—to contribute to the nonfederal share in cleanups that go beyond what might be possible under an enforcement action. The intent of the original legislation, without absolving PRPs of any liability, was to allow the Legacy Act to be applied as broadly as possible and to address the orphan share of sites, even if PRPs were responsible for some of the contamination in an Area of Concern. We agree with this intent and felt that it should be clarified in the reauthorization, without removing any liability requirements under CERCLA or other statutes;
- Remove “maintenance of effort” requirements—because the cost of sediment cleanups vary highly from year to year and generally decline significantly once a cleanup is complete, these requirements can force a project sponsor to contribute funding that exceeds the actual cost of the project, thus deterring participation in this program and disqualifying otherwise excellent projects;
- Allow disbursement of Legacy Act funds to nonfederal contractors so that private contractors can implement a cleanup with federal agency oversight—this will allow more efficient and effective use of Legacy Act funding. For example, if a local sponsor is already using a private contractor to clean up part of an AOC using another sources of funds, this provision would allow EPA to expand the cleanup to other areas of the AOC using Legacy Act funds without the expense of bringing in another dredge and other duplicative cleanup equipment—rather, the agency would be able to take the much less expensive and more efficient route of using the contractor that is already on-site; and
- Extend the life of Legacy Act funds so that we can undertake projects even if they cannot be completed in less than two years.

The Great Lakes Regional Collaboration partners deliberated these policy changes and the recommended funding increase closely before including them in the final GLRC Strategy. It is our consensus recommendation that these changes are essential to remove unnecessary barriers to Legacy Act implementation and to enable us to fully address contaminated sediments in Great Lakes Areas of Concern.

In closing, I urge you to reauthorize and expand the Great Lakes Legacy Act this year and to build support for the full appropriations of funds. This dedicated funding source is allowing states and EPA to clean up our toxic legacy, cross sites off the list and get rid of our “Areas of Concern” for good. It is allowing cities to redevelop valuable urban waterfronts and increase economic activity. It is testing technologies and approaches that can benefit cleanups in the rest of the nation. And it is addressing one of the most important components of the Great Lakes Regional Collaboration Strategy, which will protect our drinking water, our economic future and our Great Lakes way of life.

I urge you to act quickly to reauthorize the Great Lakes Legacy Act. It is one of the most critical steps that we can take to move the Great Lakes from an ecosystem that is on the brink of collapse to an ecosystem that is resilient enough to support a diverse, healthy environment and vibrant human communities. And we have to act now—if we wait, these problems will only get worse and more expensive to solve. We must act now to ensure that future generations can use and enjoy the Great Lakes as we do today.

Thank you for your time and your consideration.

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