

Transboundary Water Pollution Efforts in the Great Lakes: The Significance of National and Sub-national Policy Capacity



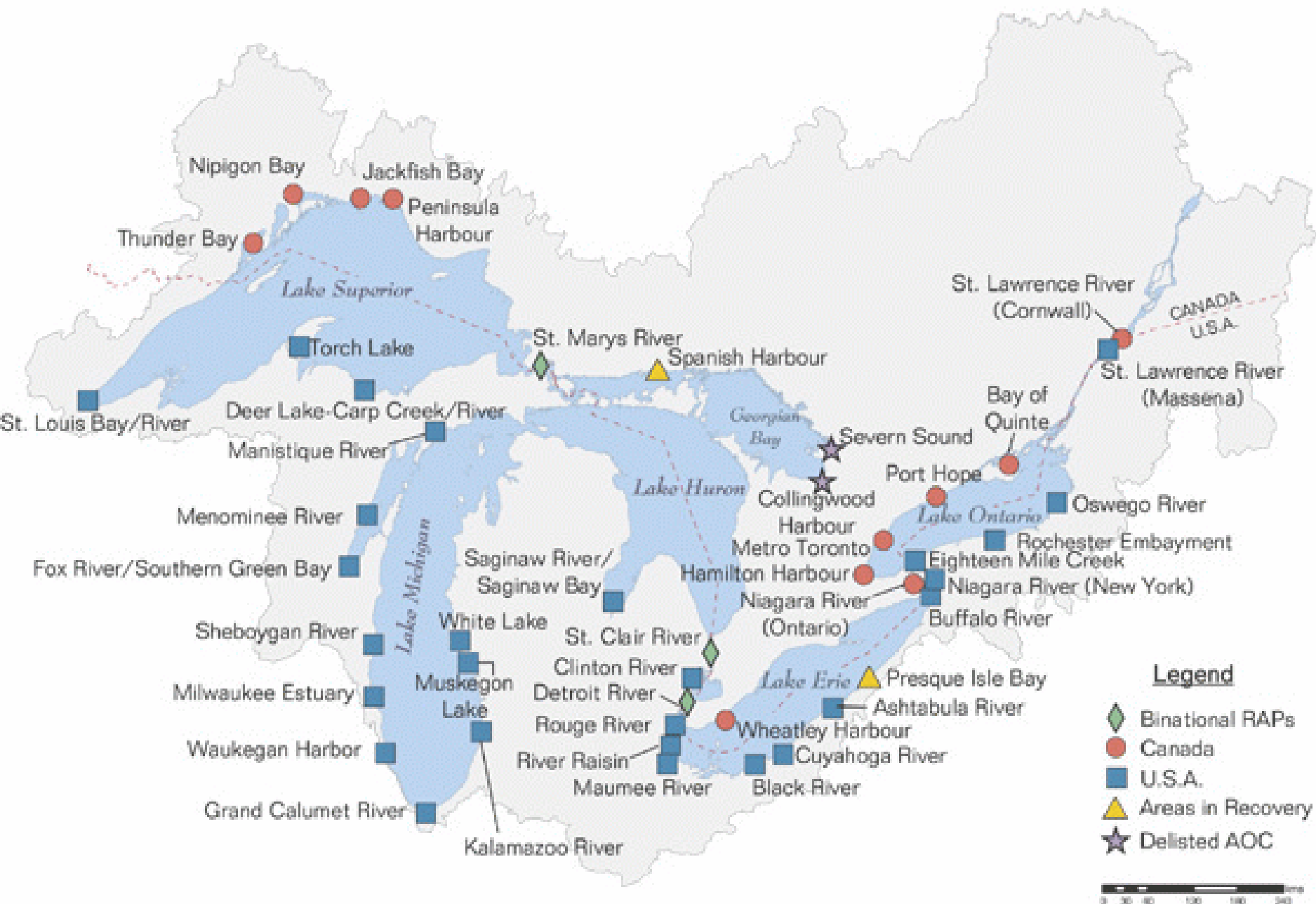
Five Governance Questions:

A Comparison of Policy Efforts and Capacity
in Canada and the US

- Framing of Issue – water pollution
- Form & Process - mostly soft law at transboundary level; mix of hard and soft law at national and sub-national levels (more hard law in US); implementation capacity critical; role of elected and bureaucratic officials
- Transboundary, national and sub-national efforts and policy capacity – asymmetry?
- Many outputs; Limited outcomes
- Preparedness for next century? Legacy of institutions?

Overview of Paper

- Introduction – the policy challenge
- *Section I* – enduring issue of water pollution in the Great Lakes
- *Section II* – transboundary policy efforts to date; efforts in Canada and US compared at national and sub-national levels
- *Section III* – comparative analysis
- *Section IV* – future policy directions



Current State of Great Lakes Water Quality?

- Some successes documented
phosphorous, point source controls,
species, other indicators
- Only 3 AOCs de-listed; 2 in Recovery
- Pollution events in the basin - Milwaukee
and Walkerton pollution cases
- SOLEC indicators 2007
- Progress slowed?
- New and re-emerging WQ issues

Transboundary Policy Response

- GLWQA well-documented as a '*non-binding, good faith agreement between the two federal levels of government*' (Botts and Muldoon 2005)
- Multi-stakeholder, intergovernmental RAPs/AOCs some success in establishment and fact-finding (Stage I); less success implementation (Stage II)
- Cooperative arrangements even more difficult in bi-national AOCs
- Reliance on sub-national implementation shift from IJC level focus to watershed focus
- Declining efforts in last decade - asymmetry
- Proliferation of institutions beyond IJC

Other Transboundary Institutions

Other Government

- Commission for Environment Cooperation (CEC)
- Great Lakes Commission – GL Basin Compact
- Council of Great Lakes Governors – Great Lakes Charter
- International Association of Great Lakes and St. Lawrence Mayors/Great Lakes and St. Lawrence Cities Initiative
- Great Lakes Fishery Commission
- State of the Lakes Ecosystem conferences
- Appendix in Sproule-Jones Paper

NGO

- International Association for Great Lakes Research
- Council of Great Lakes Industries Association
- International Association of Great Lakes Ports
- Various industry specific groups related to shipping ports, fishing etc.
- Great Lakes United, Alliance for the Great Lakes, various environmental groups with Great Lakes agendas
- Various recreational groups
- Clusters and networks around various uses, issues and watersheds

US Policy Response

- 1987 Clean Water Act same year as GLWQA; Section 118 specific responsibilities and funding related to GLWQA; established Great Lakes National Program Office and Great Lakes Research Office
- other important sections added Sec.303 (TMDLs); 319 (NPS)
- Other important federal legislation 1990 Pollution Prevention Act; 1990 GL Critical Programs Act; 1996 Safe Drinking Water Act
- Implementation primarily through state loan funds and reporting requirements
- Some disagreement between USEPA and states over responsibilities for RAPs and more recently funding
- Great Lakes Legacy Act 2002
- GAO reports in 2003: 33 federal and 17 state programs
- Great Lakes Regional Collaboration 2004

Other Factors

- Legislation at the state level
- GL Commission; CGLG
- Partnerships at the local level
- Scientific and technical capacity linked to reporting
- GL States programs with universities
- Significant role of Great Lakes groups NGOs such as Great Lakes United and Great Lakes Tomorrow
- Significance of large NGOs like NRDF and Clean Water Alliance with long-standing Great Lakes agendas
- Sustained effort over past decade

Canadian Great Lakes Efforts

- 1970 Canada Water Act – enabling not regulatory
- 1987 Federal Water Policy, same year signed the GLWQA
- 1988 & '99 Can.Enviro.n.Protection Act (toxics)
- 1990 Green Plan research and program funding
- Series of 5 year Canada-Ontario agreements since 1971
- 1990s decline in water policy capacity and Great Lakes efforts federally and in Ontario
- CESD reports 2002 & 2005
- Inter-agency Federal Water Framework 2004, PRI 2006 related to the federal role
- Post-Walkerton drinking water policy developments in Ontario past 8 years – CWA 2006 links to Great Lakes

Other Factors

- Resources at federal and provincial levels
- Intergovernmental issues
- Scientific capacity of NWRI, CCIW, EC, other federal agencies; province of Ontario
- participation in GLU; no national GL groups; organizing theme for ENGOs in Canada like Canadian Environmental Law Association, Environmental Defence, CIELP; local environmental groups

Comparative Analysis

- Broadly similar goals in GL & AOCs but different sub-national problem definitions, goals and implementation approaches (i.e. Ontario's focus on drinking water goals; US integration of point and non-point source regimes)
- Legislative & bureaucratic effort – more decentralized in Canada
- Intergovernmental – more vertical and horizontal capacity in US (although still a challenge)
- Little evidence of transboundary policy learning or lesson drawing despite long-standing institutions and Great Lakes as established 'eco-region' – 'permeability of border to ideas' at national and subnational levels?
- Research and technical capacity and reporting
- Role and sustained engagement of ENGOs and other users
- Limited outcomes in both countries

Future Governance Options

- Business as usual; incremental tinkering; new approaches
- Institutional change and renewal
- Role of IJC (fact-finding vs. decision making role)?
- Establish permanent IJC watershed boards accountable to the GL Water Quality Board
- Prioritize certain AOCs
- Merge existing boards to better integrate quantity and quality regimes - related to climate change
- Perhaps model GL Fisheries Commission and Joint Strategic Plan?

Renew the GLWQA?

- review of GLWQA, need to incorporate new goals, etc.
- proposal to develop new agreement with Binational Action Plan and Accountability Framework – status?
- praise leaders/pressure laggards
- increase focus on outcomes and technical capacity
- third party independent review
- ENGOs 'Great Lakes Blueprint'; 'A Way Forward'

Broader Challenges

- Integrate point and non-point source efforts; quantity and quality regimes;
- cross-medium challenges;
- shift from remediation and reaction to pollution prevention approaches
- New policy instrument mix
- Policy learning & lesson drawing
- Adjusting current uses – requiring more fundamental governance reform
- Link social, ecological and political systems