

Lake Erie Protection & Restoration Plan 2008



LEPR 2008

Public Comments

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Cover Photo: Amy Driftmeyer, Toledo, Ohio. 2007 *Life on Lake Erie* photo contest entry.

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Acronyms

AOC	Area of Concern
BGWP	Balanced Growth Watershed Plan
BIGP	Boating Infrastructure Grant Program
BLLUP	Best Local Land Use Practice
BMP	Best Management Practice
BOW	Boating on Ohio's Waterways
CAFF	Concentrated Animal Feeding Facilities
CBF	Cooperative Boating Facilities
CELCP	Coastal and Estuarine Land Conservation Program
CGLG	Council of Great Lakes Governors
GLRC	Great Lakes Regional Collaboration
CSO	Combined Sewer Overflow
CVA	Clean Vessel Act
CZARA	Coastal Zone Act Reauthorization Amendments
DRP	Dissolved Reactive Phosphorus
GIS	Geographic Information Systems
GLLA	Great Lakes Legacy Act
GLRC	Great Lakes Regional Collaboration
HSTS	Home Sewage Treatment System
IJC	International Joint Commission
LaMP	Lakewide Management Plan
LEPR	Lake Erie Protection & Restoration Plan
LEQI	Lake Erie Quality Index
LESEMP	Lake Erie Shore Erosion Management Plan
LTCP	Long Term Control Plan
MEP	Maximum Extent Practicable
MS4	Municipal Separate Storm Sewer System
NOAA	National Oceanic and Atmospheric Administration
NPDES	National Pollutant Discharge Elimination System
ODA	Ohio Department of Agriculture
ODH	Ohio Department of Health
ODNR	Ohio Department of Natural Resources
ODOD	Ohio Department of Development
ODOT	Ohio Department of Transportation
OEPA	Ohio Environmental Protection Agency (Ohio EPA)

OLEC	Ohio Lake Erie Commission
PAH	Polyaromatic Hydrocarbons
PCA	Priority Conservation Area
PCB	Polychlorinated Biphenyls
PDA	Priority Development Area
RAP	Remedial Action Plan
SFOSTS	Small Flow On-Site Sewage Treatment System
SWCD	Soil and Water Conservation District
SWMP	Storm Water Management Plan
TRI	Toxic Release Inventory
USEPA	United States Environmental Protection Agency
VHS	Viral Hemorrhagicsepticemia Virus
WAP	Watershed Action Plan

Public Comments

Public Comment: What is the baseline metric on riparian setback adoption for the Lake Erie Basin. How many communities/jurisdictions could adopt legislation. Is there a goal for the next five years of municipal adoption of the setback. Where are we now in terms of adoption in the basin. (How many communities have already adopted) This data is available through local MPO's or Watershed Orgs.

Response: The adoption of riparian setback ordinances across the basin is difficult to track on a regular basis. With over 700 local jurisdictions, maintaining a database of not just communities with or without a regulation, but the extent to which that regulation meets the recommended distances for various stream sizes and wetlands has to date been beyond the scope of our efforts. Currently, work is being done to assist communities on a voluntary basis with adoption of best local land use practices, including riparian setback ordinances, as requested by the communities. The development of an inventory of practices within the Balanced Growth Pilot Project watersheds is likely to be the first step towards developing an inventory as described in the comments. A goal has not been set to date, as adoption is a locally led effort, which the Commission will work to provide assistance on, as requested by the local community.

Public Comment: Development of Watershed Action Plans – Where are we on development and adoption. Context of goal is important. How many are complete, endorsed. What is the goal of completion of WAP's for the basin. Are there priority watersheds that need WAP. How do we prioritize WAP development if needed.

Response: The development of WAPs is guided on a day-to-day basis through ODNR, Division of Soil and Water Conservation. Currently there are eight plans endorsed (partial or full) within the Lake Erie basin, with one under review. Ideally, a plan will be written and receive endorsement for all of the watersheds within the basin. Prioritization of the planning process is managed by ODNR, and is a level of detail that is not included within the LEPR due to length considerations. Additional information on watershed planning is available at <http://www.dnr.state.oh.us/soilandwater/water/watershedprograms/default/tabid/9192/Default.aspx>.

Public Comment: Statistics and metric goals for Clean Marina Program would be helpful in terms of context. How many are currently registered. How many exist that could be registered. What is the goal for the next five years.

Response: Currently there are 39 certified Clean Marinas in Ohio's Lake Erie basin, with 20 additional marinas pledged to become Clean Marinas. There are approximately 300 marinas in the Lake Erie watershed. While a five year goal has not been set, the program's current goals are to annually certify ten new marinas and receive pledges from an additional ten marinas to become certified. Additional information on the Ohio Clean Marina Program can be found at ohiocleanmarina.osu.edu.

Public Comment: How many MS4's exist in the Lake Erie Basin. How many have been audited to date?

Response: There are currently 245 small MS4s in the Lake Erie basin that are regulated. Several of these localities joined together to be co-permittees; therefore, there are actually 152 permitted small MS4 entities in the basin. A complete list of all the currently regulated MS4s in Ohio is available at http://www.epa.state.oh.us/dsw/storm/2000_App_6_List.pdf. Within the next year it is expected an additional 13 small MS4s within the basin will be permitted. A total of 9 audits have been performed as of August 2008. They are: City of Rossford; City of Oregon; City of Avon; City of Brunswick; Medina County; Village of Richfield; City of Solon; City of Kent; and City of Beachwood.

Public Comment: Recommend identifying Cleveland Port Project as a major project in the Basin related to this issue [dredged material disposal].

Response: ODNR has been and intends to continue consulting with the Cleveland-Cuyahoga County Port Authority and the U.S. Army Corps of Engineers for various projects planned in Cleveland Harbor, including the construction of a new confined disposal facility (CDF) and the development of a new facility for port operations. As the port operations project is being led by a unit of local government, rather than by a member agency of the Ohio Lake Erie Commission, it was not specifically listed in this plan. However, the issue will continue to be addressed by state agencies as requested by the port authority and as required under programs administered by those agencies

Public Comment: Establishment of a Coastal Habitat Index (LEQI). What metrics are used to determine habitat health along the coastline and estuary/lacustrine zones of the basin. Is this part of the LESEMP?

Response: Currently, the *2004 State of the Lake Report: Lake Erie Quality Index*, scores green area conversion, wetlands, and shoreline hardening metrics. Although not directly related, shoreline habitat protection and enhancement practices will be included in the *Lake Erie Shoreline Erosion Management Plan* (LESEMP). Ohio EPA produced the report *Methods of Assessing Habitat in Lake Erie Shoreline Waters Using the QHEI Approach* in 2004. This methodology allows for analysis of the issues discussed in the comment.

Public Comment: Identify habitats based upon LaMP and prioritize restoration and protection for each habitat within Basin. Identify funding.

Response: The Lake Erie LaMP identifies activities related to habitat priorities in the April, 2008 update. In addition, there are habitat restoration and protection initiatives underway as part of the *Great Lakes Regional Collaboration* (<http://www.gllrc.us/initiatives/wetlands/WetlandsUpdate06-2008.html>). Information including, but not limited to these two sources should contribute to prioritization decisions made by both public and private entities. The LEPR is not meant to identify outside funding sources for projects or programs. Rather, the LEPR is meant to provide a summary of current and planned state efforts to implement tasks toward reaching the provided goals and strategic objectives.

Public Comment: Quantify dams from WAP's. If we can identify number of dams and prioritize high habitat benefit dams for removal from now until 2014, then initiate dam removal program/partnership for the next five years. Goals of dam removals. How many should we be striving for to benefit Lake Erie habitat.

Response: There are over 300 dams in the Lake Erie watershed, and removal is one of several options to minimize the negative impacts of dams on water quality and riparian habitat. Dam removal is currently a priority for several funding sources, including OEPA Section 319 grant dollars. Identification of priority dams for removal should be a part of any endorsed watershed action plan. Efforts are ongoing to identify and address the highest priority dams within the watershed, including the Ballville Dam in Sandusky County, among others. Locally led efforts are most likely to be successful in attracting funding necessary for the removal of priority dams.

Public Comment: The assessment [Urban/Green Infrastructure] should include a retrofit build out analysis that incorporates source pollution prevention and water volume control on a watershed scale. Also provide population density and impervious cover metrics to define "urban" watersheds in basin.

Response: Recommendations regarding the assessment attributes have been shared with ODNR staff. Urban areas, and thus watersheds, can be determined by USEPA's designation of urban areas for the MS4 permitting program (<http://cfpub.epa.gov/npdes/stormwater/urbanmapresult.cfm?state=OH>). There are at least two

models that have been developed to analyze green infrastructure that could be used to perform the analysis suggested in the original strategic objective. The “retrofit build out analysis” could be conducted in concert with the local agencies as scenarios against the baseline condition.

Public Comment: Future goal: Establish funding to “urban” watersheds since they typically can not “compete” with more pristine watersheds (i.e. Grand)

Response: Funding should be prioritized on the benefit to the resource and the community dependent upon the resource, both human and wild flora and fauna. Designation of funding based on land use intensity alone may not allow for the greatest benefit for each dollar spent.

Public Comment: Identify Towpath Trail/Canal Basin Park as a key initiative to connecting the Lake to the community in Cleveland.

Response: This proposed action item is recognized as a potentially valuable improvement for public recreation opportunities in the Cleveland area. However, actions of this level of specificity would be more appropriately proposed and planned for at the local level rather than through this plan.

Public Comment: Identify Clean Ohio Fund as an integral funding source for implementation.

Response: Clean Ohio Funds have been identified as critical funding for multiple projects. See pages 35 and 36. The future design and availability of Clean Ohio funds will determine their applicability for implementation of practices.

Public Comment: Build stronger partnerships with local groups and state to facilitate federal funding programs for habitat restoration/protection.

Response: The Watershed Coordinator Program and the Balanced Growth Initiative have both been implemented in part to help build a stronger dialogue between state agencies and local citizens, organizations, and government. Utilization of these partnerships is likely the best way to attract federal funding for a variety of projects.

Public Comment: Discuss the importance of stewardship on all fronts.

Response: Additional text could be included on this and many other topics of significance to this plan. However, text was limited due to document length considerations.

Public Comment: Expand the discussion on land preservation for habitat protection, smart growth, revitalization of urban areas and recreation/tourism.

Response: Additional text could be included on this and many other topics of significance to this plan. However, text was limited due to document length considerations.

Public Comment: An action item should include that local jurisdictions should, for all streams and ditches adopt stream bank stabilization programs, buffer strips etc. as part of the Storm water regulations. The plan should include all streams and not be limited to just streams that have watershed plans.

Response: The adoption of practices such as described in the comment have been recommended through the Best Local Land Use Practices developed as a part of the Balanced Growth Program. The Best Local Land Use Practices are available to any community within the basin. The OEPA Storm Water Program addresses runoff management during and after development or redevelopment from areas where one or more acres of ground disturbance occurs. The program allows for the use of conventional structural and/or non-structural (aka green) best management practices. Currently, the program is moving in the direction of increased use of green controls

Public Comment: The action items should also include that local jurisdictions, not just watershed management plans should be eligible for coastal management assistance grants

Response: The overall goal of the Coastal Management Assistance Grant program is to promote a sustainable Lake and coastal area. While watershed action plans and watershed balanced growth plans have been included among the priorities for Coastal Management Assistance Grants, the grants are available for a wide variety of activities as outlined in O.R.C. 1506.02(C). These activities include: feasibility studies and engineering reports; protection and preservation of wetlands, beaches, fish and wildlife habitats; management of shoreline development to prevent loss of life and property; increasing public access; protection and preservation of historical, cultural, or aesthetic coastal resources; and other purposes.

Eligible applicants include units of local government, including municipalities, townships, counties and villages; area-wide agencies, including county and regional planning agencies; state agencies; colleges and universities; school districts; park districts, conservancy districts and port authorities; and non-profit organizations.

Public Comment: In addition to watershed coordinators, there should be support for plans of Lake Erie by basin with a coordinato(s)r for each basin and also Maumee, Sandusky and any other bays, and estuaries.

Response: Efforts have been undertaken with federal funding to organize projects within the western basin through the Western Lake Erie Basin Partnership. Management of the vast network of partners and projects on this scale is difficult for any one staff person or organization to handle. The watershed coordinator program has been undertaken to allow for the direction of funds towards more manageable land areas, with the expectation that improvements within local streams will result in downstream improvements as well. Opportunities from within the non-profit community and the LaMP provide avenues for citizens to become directly involved with Lake Erie issues to an even greater degree. There is very little that can be done to influence the basins of Lake Erie that can't be done through watershed management, which is why they are the focus of restoration efforts in Lake Erie. Watershed management plans should ultimately produce benefits at a basin level but coordination of efforts needs to occur at the watershed scale.

Public Comment: There should be an evaluation of the impacts of the Detroit River on water quality in Lake Erie. The Detroit river supplies about 90% of the water to Lake Erie – its impacts are profound on Lake Erie water quality – there should be a joint plan with Michigan to assess impacts

Response: While the Detroit River supplies a large percentage of Lake Erie's water inflows, the vast majority of sediment and related nutrients that impact areas such as Maumee Bay and western Lake Erie are received from the Maumee River. Work at this level would require international cooperation and the involvement of multiple states beyond Ohio and Michigan. Work of this nature is best undertaken through the Lake Erie LaMP, an existing cooperative effort with the states, Ontario and U.S. and Canadian federal agencies. It is important to note that the LEPR plan outlines what the Lake Erie Commission agencies are doing to benefit the lake. It is not a comprehensive list of all local, state, and federal activities. It is a higher priority for Ohio to concentrate on programs it has authority for that can be better managed to improve and protect Lake Erie.

Public Comment: There should be an action item that seeks to determine the impacts of thermal water use on nutrient loading and algal blooms

Response: Under the action item "support research on causes and potential solutions to HABs including microcystis and *lyngbya wollei*", projects researching thermal impacts and nutrient loading could be funded.

Public Comment: In addition to ODA testing for pesticides, there should also be an investigation into the antibiotics coming from wastewater plant outfalls into the Lake Erie watershed

Response: Two action items have been added under the strategic objective “reduce loadings of toxins and other pollutants from businesses and households” to the final draft of the plan to address pharmaceuticals and personal healthcare products.

Public Comment: Leave the jurisdiction for NPDES permits for CAFOS with Ohio EPA. ODA has little to no experience with the Clean Water Act. Amongst other things, it is inefficient to move CAFO NPDES permits to ODA where personnel would have to be trained and will never have the depth of knowledge that OEPA has.

Response: The jurisdiction for the NPDES permit was decided in 2000 when legislation authorized the Ohio Department of Agriculture to apply for authority to issue NPDES permits to CAFOs. The state of Ohio submitted more than 1,600 pages of certified documents to the U.S. EPA showing that ODA meets – and in many cases exceeds – the minimum legal requirements of the Clean Water Act for permitting authority. ODA has a larger staff for engineering, inspections and legal support. They have been trained in water quality sampling and work closely with Ohio EPA on the state’s water quality monitoring and water quality standards which are addressed in the joint memorandum.

Public Comment: The way to know if the animal waste is a problem is to test the streams near the manure application. This method was used very successfully in Michigan. To train Soil and Conservation people with no resources for testing water and air will not work. Testing the streams before and after the CAFO should be an action item

Response: The action items associated with the strategic objective “reduce nonpoint source pollution originating from animal feed lots” does not address training SWCD staff to test for pollution problems. SWCD staff are currently a primary resource for technical information on the proper storage and application of manure and related materials. Increasing the level of service provided by these staff will continue to have a positive impact on proper manure management within the basin. Local and state SWCD staff will continue to work in cooperation with OEPA staff on addressing problem facilities and in areas where there is a high potential to discharge to the waters of the state. USEPA, in their 2003 rule revisions, decided that water quality testing of application fields was not practical due to the large number of fields and the fact that any discharge at all was not allowed. If there is a discharge, testing of all discharges from land application is conducted by the facilities, OEPA, ODNR and ODA.

Public Comment: Sanitary sewer systems that are not connected - SSO’s can and do discharge raw sewage during heavy rainfalls because of infiltration in to the old pipes. The City of Oregon put in a new sanitary sewer line to service areas that had many septic system failures. This was important because the sewage was impacting the public beach at Maumee Bay State Park. Now that the sewer is installed, the old trunk line backs into the new trunk line, blows a manhole that allows raw sewage to enter the creek that flows to the public beach. No

notification to the beach users over the 4th of July was provided. An action item should include SSO's.

Response: The plan specifically calls for the elimination of “combined sewer and sanitary sewer overflows”, regardless of the cause. The particular situation raised in this comment will be addressed by requirements in the NPDES permit renewal for Oregon. Oregon’s NPDES permit is scheduled to be renewed fall 2008.

Public Comment: The public should be informed of all wastewater overflows into the Lake Erie watershed – quantity –date.

Response: Communities with sewer overflows are required to develop a public notification program that informs the public when and where overflows are likely to occur and possible health risks associated with those overflows. It also asks communities to develop a list of overflows, their location and a historical summary of overflow events. This public notification program is to include newspaper articles, billing inserts, signs at overflow locations and a web site. Ohio EPA is also working to update our website to include better location and historical information on sewer overflows and links to websites maintained by CSO communities.

Public Comment: This section says ODNR will evaluate this [natural channel design] – storm water regs are filed with OEPA – OEPA should be part of this. The storm water regs should be assessed for how this all can fit together

Response: ODNR, Division of Soil and Water Conservation staff are currently conducting field work to evaluate principles related to stream flow regimes, floodwater management, and habitat quality. Data and information will be shared with OEPA and other agencies as necessary upon completion of this work, as noted in the comment.

Public Comment: An action item for the plan should include studying lyngbya and determining if there are control measures and determining the short and long term impacts of this spreading along the shorelines of Lake Erie and the Great Lakes.

Response: Under the action item “support research on causes and potential solutions to HABs including Microcystis and Lyngbya”, projects of this nature could be funded.

Public Comment: This investigation [HABs] should include ODNR and OEPA – not just the Lake Erie Commission

Response: Activities undertaken by the Lake Erie Commission will include involvement from all six representative agencies as necessary, including ODNR and OEPA. Where the Commission

is noted as a lead agency, a primary effort will be housed within the Commission office to ensure this objective is addressed using the appropriate resources from within the member agencies.

Public Comment: This [Develop state actions that will reduce open lake disposal] should read eliminate open lake disposal – OEPA has repeatedly taken the position that there should be no open lake disposal

Response: Ultimately, the elimination of all open lake disposal is desirable. Viable alternatives must be explored and implemented before this will become a reality. Work over the next two years should make progress towards this end, by reducing the amount of open lake disposal allowed.

Public Comment: The action items should include modeling for Maumee Bay – which has the most ongoing dredged channel in Lake Erie. Maumee Bay is dredged annually where the Maumee River is about once every three years. There is no modeling in Maumee Bay – instead all NPDES and other evaluations treat Maumee Bay whose water average 5’ in depth are the same as Western Lake Erie whose waters average 24’ in depth.

Response: Although no modeling of Maumee Bay is planned at this time by Ohio EPA, the proposed Lake Erie nearshore monitoring will provide the opportunity to collect data that would be needed for any future modeling effort.

Public Comment: Eliminate new invasives and control where possible existing invasives.

Response: The action items associated with Invasive Species aim specifically to “eliminate the introduction of invasive species to the Lake Erie basin” and “reduce the negative impacts caused by invasive species.”

Public Comment: An action item should be to control, eradicate phragmites – look at Michigan and other programs and initiate programs in the Lake Erie watershed. Phragmites is causing a huge loss of cattails and other native plants.

Response: Phragmites is recognized as one of many current and emerging invasive species issues which must be addressed. As part of this effort, ODNR has funded and implemented activities to study and control phragmites in coastal State Nature Preserves. Short-term control of phragmites is effective, though very costly. Long-term eradication remains the ideal goal, but it has not been successfully demonstrated anywhere.

Public Comment: Another action item should be to monitor, document, and control if possible the spread of *lyngbya* along the shoreline.

Response: Under the action item “support research on causes and potential solutions to HABs including *microcystis* and *lyngbya wollei*”, projects of this nature could be funded.

Public Comment: While septic systems are a problem so are wastewater treatment plant overflows. Missing in this report in many areas are SSO’s and the infiltration of storm water into the SSO’s resulting in massive amounts of sewage into the Lake Erie watershed. There should be an action item to assess and reduce these impacts. See previous comment on eliminated septic systems in Oregon and then getting massive overflows from the wastewater plant to the beach at Maumee Bay State Park

Response: This item specifically calls for the elimination of “combined sewer and sanitary sewer overflows.”

Public Comment: This should read combined and sanitary sewer systems with storm water infiltration – the SSO’s with these problems should be listed as well. Overflows should be reported on the ODH website so that recreational users will know when wastewater plants are dumping sewage into the Lake Erie watershed

Response: OEPA and ODH will work to add additional information on the website regarding sewer overflows. This update will, at a minimum, identify specific bathing areas likely to be impacted by sewer overflows.

Public Comment: Action items [Strategic Objective: Eliminate combined sewer and sanitary sewer overflows according to each community’s Long Term Control Plan] in this section should include SSO’s

Response: The plan specifically calls for the elimination of “combined sewer and sanitary sewer overflows.”

Public Comment: This [action item: publish a coastal design manual] should include creating a state code for local jurisdictions to adopt – this is the quickest and most expedient way to get consistent planning and development rules along the coast

Response: The Coastal Design Manual’s goals include educating consulting engineers on the design of coastal structures, outlining minimum design requirements for coastal regulatory applications, and expediting the permitting process for applicants. It will not create new ordinances or rules and is intended to only be used on a voluntary basis.

Model ordinances have been distributed through the Ohio Lake Erie Commission's Balanced Growth Initiative. Adoption of these ordinances by communities is voluntary, and would provide for more consistent planning and development across the basin. A coastal model ordinance is yet to be developed and included in the Best Local Land Use Practices. This is scheduled to be completed during the next biennium.

Public Comment: This section [Priority: Areas of Concern] should also include a priority for assessing Lake Erie. Watershed plans etc. are helpful – but the reality is that Western Lake Erie is turning green again – algae and dead zones. There needs to be more assessment of the lake shoreline and outfalls and water uses that impact the lake and are not connected to watershed areas. Mercury and heavy metal assessments etc. are not happening. Perhaps there should be Lake Erie shoreline watershed plans within each Lake Erie basin. There should also be TMDL's in Lake Erie in 2009.

Response: This section applies specifically to Ohio's four Lake Erie Areas of Concern. In this case, the term "Area of Concern" has a specific definition as established under the 1987 revisions to the Great Lakes Water Quality Agreement. It does not cover other tributaries or nearshore areas that are not within the established boundaries of an Area of Concern. It is expected that improvements/restoration of the Areas of Concern will have a significant impact on the quality of Lake Erie. As described within the LEPR, Ohio EPA is working with U.S. EPA to develop a monitoring program for the Lake Erie nearshore during 2009. This data will help guide state management decisions regarding the lake. On a bi-national level, U.S. EPA and Environment Canada are planning for an intensive cooperative monitoring year to be implemented on Lake Erie in 2009. Through the Lake Erie LaMP process, a number of monitoring needs that reflect Ohio's concerns (including HABs, nearshore, western basin/Maumee Bay) have been submitted to be considered for inclusion when the monitoring plan is developed for 2009. Although TMDLs are scheduled to be done for the Ohio Lake Erie shoreline, they will not be done within the 2009-2011 timeframe of the LEPR action list.

Public Comment: Conduct TMDL's and sediment samples in AOC areas where they have not been done. The Maumee River has had no overall assessment for 10-20 years. The data is old. To clean up an area, good information is needed. TMDL's and sediment samples in the rivers have been stalled because of the time it takes and Ohio gets more credit for TMDL's in smaller streams. This does not serve the larger rivers in need of assessment. The Maumee River may need cleanup – where and what is unknown. This lack of information fails to put Maumee River remediation in line for funding.

Response: A stream network is dominated by smaller streams, which feed the large rivers. The vast majority of waters within Ohio are smaller streams that meander through communities, open fields, and woodlands across the basin. Assessment and implementation of nonpoint source pollution controls is more effective at the smaller watershed scale than on a large river. The improvement of smaller streams and subwatersheds will continue to be the key towards

improving our big rivers, which meet water quality use designations more often than the small tributaries. The monitoring of streams is also limited by the amount of funding available, and all streams within Ohio will receive monitoring based on the set schedule. The Maumee River drains a huge watershed that contributes a high load of sediment, nutrients and other contaminants. TMDLs are underway in several of the highly loading tributaries in the upper watershed (Tiffin, Blanchard, Auglaize Rivers). TMDLs are also underway on Swan Creek and several of the smaller tributaries near the mouth of the Maumee River. Until there is substantial improvement in the loading from the tributaries to the Maumee, other than point source controls, there is not much that can be done to restore the main stem of the river. Additional sediment sampling should be done for the main stem outside of the navigation channel, but there is no funding to implement this sampling for the 2009-2011 timeframe covered under the LEPR.

Public Comment: It is disappointing to see the 2009-2011 action items only for the Ashtabula and not for the Cuyahoga and Maumee. Something is wrong when there is no plan for cleanup etc. for these major rivers. The Highland Dam and Swan Creek projects are not in the mainstream. Why is there no plan and priority projects for the Maumee and Cuyahoga?

Response: There are a number of projects listed for both the Cuyahoga (tributaries and main stem) and Maumee AOCs. Because the Maumee is such a large watershed and a large AOC, the approach that is being taken for restoration is to address the AOC by subwatershed. Restoration cannot take place if there are ongoing upstream sources that could re-contaminate or negate any remedial or habitat improvement projects that need to be done in the main stem. The list of needs for the Maumee AOC is very long and expensive and the resources are not there to implement them all at the same time.

Public Comment: An action item in this section should include a Lake Erie shoreline assessment and plan

Response: Other than for the shoreline immediately adjacent to the river mouths of the four Ohio Lake Erie AOCs, Lake Erie is not within the established boundaries of the AOCs. As described on page 34 of the LEPR, Ohio EPA is working to develop a nearshore monitoring plan to begin in 2009. Additionally, ODNR is developing a Lake Erie Shore Erosion Management Plan, although that plan focuses on shore erosion issues rather than issues associated with Ohio's four designated Areas of Concern.

Public Comment: Add provide assistance to create Lake Erie watershed coordinators to assess the Lake Erie shorelines with one, two or three per basin

Response: Funding is available for watershed coordinators through ODNR, Division of Soil and Water Conservation. The Firelands Tributaries is an example of a series of small, direct

tributaries which have received funding to address direct Lake Erie tributaries. Groups such as these have the potential to focus their efforts on the Lake as well.

Public Comment: Collecting fish samples for analysis of mercury and other metals etc. should be a high priority in this plan – there should also be sampling of Lake Erie sediments in suspected areas where there are mercury and other toxic sources- power plants and cement kilns to name a few.

Response: The collection of fish tissue samples is a priority activity as noted within the Priority on Toxic Pollutants, under the Strategic Objective *reduce the concentration of toxic contamination in Lake Erie and its tributaries to eliminate fish consumption advisories for all species.*

Public Comment: List the 14 companies that are part of the TRI group and encourage more to participate

Response: A list of the 14 companies participating in the Tox-Minus program can be found on Ohio EPA's website (<http://www.epa.state.oh.us/ocapp/tox-minus.html>), where it will be updated as additional companies join. Ohio EPA continues to encourage companies to sign up for the program from across the state.

Public Comment: Action items [under the Strategic Objective: Protect, enhance, and restore wetlands...] should take out placing Habitat/wetland restoration projects in Maumee Bay and insert in its place Western Lake Erie. Maumee Bay is so impaired by fill from shoals and cdf's – estimated at 30% of the bottomland and , power plant intakes and thermal plumes that use 1 billion gallons of water a day - it is hypocritical to 'add a wetland'. There are no plans for existing cdf's in the bay and there are no shoal management plans. Plan for and take care of the altered areas in the bay – do not add more. Wetland – HRU's, if placed in the open waters, should be in Lake Erie not the bay.

The action items should read Western Lake Erie Restoration project – identify source grant funding

Western Lake Erie Project – additional monitoring and modeling

These items should, if feasible, be connected to the Toledo Lighthouse Restoration project with a 'habitat island' on the Lake Erie side. Coordinating these two projects could result in enhanced habitat including spawning areas and increased utility of the lighthouse.

Response: The Maumee Bay State Park Wetland Restoration Project is a joint effort between ODNR, Ohio EPA, the University of Toledo, U.S. Geological Survey, the City of Oregon, TMACOG & the U.S. Army Corps of Engineers to study ways to reduce the amount of bacteria

entering Maumee Bay near the Maumee Bay State Park marina. The project's goals do not include placing wetlands or dredged materials in the bay. The State of Ohio and the U.S. Army Corps of Engineers will undertake appropriate studies to ensure that the placement of any habitat restoration projects will provide the greatest environmental and social benefit and the greatest likelihood for success for that project.

Public Comment: Strongly support and a high priority monitoring program for the nearshore. Have suggestions for funding and implementations

Response: Ohio EPA is working with USEPA to implement more robust monitoring of Lake Erie during 2009. The LEPR is not meant to identify outside funding sources for projects or programs. Rather, the LEPR is meant to provide a summary of current planned state efforts to implement tasks toward reaching the provided goals and strategic objectives.

Public Comment: Actions should include the Toledo Lighthouse where there can be recreational opportunities that could coincide with an HRU in Lake Erie – an island for habitat and soft uses.

Response: Funding has been provided by the Lake Erie Protection Fund and Coastal Management Assistance Grants to assist with efforts towards renovation of the Toledo Harbor Lighthouse. Locally led efforts should be allowed to guide this restoration and the development of this resource.

Public Comment: Actions should include assisting existing lighthouse organizations with restoration of the historic structures. The Toledo Lighthouse is 'water based' while the others are land based.

Response: Funding has been provided from the Lake Erie Protection Fund and Coastal Management Assistance Grants for restoration planning and activities at multiple lighthouses. These projects will continue to be eligible for funding, contingent upon the conditions of future RFPs, as they contribute towards the broader strategic objectives listed, despite no planned state actions. Please note, this plan details objectives for all groups to work towards, yet includes only OLEC member agency activities towards these objectives. This plan is by no means inclusive of all activities underway within the basin.

Public Comment: Actions should also include plans for the cdf's in Maumee Bay – Grassy Island and Facility Three

Response: Management of the respective confined disposal facilities (CDFs) in Maumee Bay is the responsibility of the U.S. Army Corps of Engineers and Toledo-Lucas County Port Authority.

As the Lake Erie Commission is comprised of state agencies only, the direct planning for CDFs has not been addressed in this plan. However, ODNR and Ohio EPA have worked cooperatively with both organizations on issues related to the CDFs in the past and as suggested in the comment, will continue to work on CDF planning and dredged material management issues with these organizations and other stakeholders in the future.

Public Comment: Including in action plan kayaking and canoeing in Maumee Bay from the ODNR boat ramp to Maumee Bay State Park as well as places to kayak and canoe along the shoreline.

Response: Action item calls for the development and designation of “at least one state water trail along the shore of Lake Erie and its tributaries.” This or a second water trail could be located within Maumee Bay to address this comment if there is sufficient local desire to support such a designation. Although state actions may not specifically be planned for a given area, local organizations can implement projects towards goals such as this.

Public Comment: Action items should also include bird promotion of bird watching areas along the shoreline and tributaries

Response: Birding is actively promoted across the basin, including in the vicinity of Magee Marsh and Ottawa National Wildlife Refuge, which is considered among the top ten destinations for birding in the United States. Promotion of birding by private entities, such as Lake Erie Coastal Ohio, and by local travel and tourism entities compliment planned state initiatives within the watershed.

Public Comment: These action items are for 2009-20011 for recreational opportunities and sustaining commercial fishing:

Conduct studies to determine the fish kill impacts at the Bay Shore First Energy power plant, thought to be the largest fish killing power plant in the Great Lakes. The Maumee River Watershed is documented as the most biologically productive watershed in the Great Lakes. The Bay Shore/First energy power plant is said to take up to 80% of the total flow from the Maumee River through its intake. Millions of fish are impinged (caught against the screens) and billions entrained- usually larval fish (through the screens) each year. A study in the 70's on all intakes in the far western basin showed Bayshore killing thousands of perch and Bayshore as the largest fish killer. While studies are ongoing, the plant should be encouraged to have maintenance/shut downs during spawning seasons – especially walleye. ODNR should consider mitigation requirements for the fish kills that would fund research on how to enhance fish populations along the shoreline

Response: ODNR will be communicating with Ohio EPA during the autumn of 2008 about this issue. Communications will include technical review of past and current scientific assessments of fish impingement and entrainment, and development of potential management options, with mitigation being one of those options. Ohio EPA and ODNR will evaluate the Bayshore facility for impingement and entrainment impacts during the 2009 NPDES renewal for the Bayshore Plant. They will be meeting with local groups to share information and take comment as the process moves forward.

Public Comment: Action items should include the Toledo, Ashtabula, Loraine and other lighthouses. There should be coordinated boat tours along the Lake Erie shoreline to visit Ohio's lighthouses and an Ohio Lighthouse Festival where all lighthouses have public access for a week – or whatever time frame determined. Michigan capitalizes on this – so should Ohio.

Response: Funding has been provided from the Lake Erie Protection Fund and Coastal Management Assistance Grants for restoration planning and activities at multiple lighthouses. These projects will continue to be eligible for funding, contingent upon the conditions of future RFPs, as they contribute towards the broader strategic objectives listed, despite no planned state actions. Please note, this plan details objectives for all groups to work towards, yet includes only OLEC member agency activities towards these objectives. This plan is by no means inclusive of all activities underway within the basin.

Public Comment: Action item should include Compact implementing legislation that includes provisions for water conservation and for protection of Lake Erie watershed groundwater as well as limiting the sale of containerized water outside the watershed when the amount of containerized water taken outside the watershed exceed that coming in.

Response: On June 27, 2008 Governor Strickland signed Ohio's legislation ratifying the *Great Lakes-St. Lawrence River Basin Water Resources Compact*. The ratification legislation contains provisions for the establishment of an advisory board for the purpose of developing recommendations for legislation that is necessary to implement the requirements of the *Compact*. Among the issues that the board is required to address are: thresholds for regulating new or increased water withdrawals, development of the state's water conservation and efficiency programs, requirements regarding the review of lists of existing water users, and the methodology for determining the capacity of existing water withdrawal facilities. The board has the authority to address other important issues needed to fully implement the compact. Also, the *Compact* identifies groundwater as part of the waters of the basin and so it is protected by all its provisions. With regard to the sale of containerized water outside the watershed, the ratification legislation signed by the Governor in June considers water incorporated into a product for either intermediate or end-use consumers either within or outside of the basin as a consumptive use and not a diversion, but classifies the removal of water from the basin in a container greater than five and seven-tenths gallons in capacity as a diversion and therefore subject to all the restrictions identified in the *Compact*.

Public Comment: Believe that solar panels would be better than wind at State Parks. This maintains the tranquility and natural sense at the parks.

Response: A variety of alternative energy sources will be examined at various locations over time. Wind, solar, and other sources of power are not without their impacts, and these impacts must be carefully considered when making decisions about the most appropriate solutions for a given site.

Public Comment: Your recommendation to transfer authority over NPDES permits to ODA is in direct conflict with your responsibility to recommend actions that will enhance the water quality of Lake Erie. My attached testimony [not included in this text due to length considerations] to the Ohio House in 2006 refers to only a small fraction of the abuses we farmers and other rural residents have observed since the authority over CAFOs was transferred to the ODA. Therefore, I highly recommend that you request complete removal of ODA's permit authority over CAFOs, and that responsibility of NPDES permits continues to reside with the Ohio EPA.

Response: Transferring jurisdiction for NPDES permits for CAFOs from Ohio EPA to ODA is a final decision that was made by the Ohio legislature in 2000. However, the United States Environmental Protection Agency must approve the transfer of jurisdiction, and will provide oversight of ODA's program as they do Ohio EPA's program. They are in the process now of assuring that ODA's program meets the Clean Water Act requirements. Prior to acting on Ohio's request to transfer CAFO NPDES delegation, U.S. EPA will be providing notice to the public and accepting comments and testimony related to the transfer. The state of Ohio submitted more than 1,600 pages of certified documents to the U.S. EPA showing that ODA meets – and in many cases exceeds – the minimum legal requirements of the Clean Water Act for permitting authority. ODA has a larger staff for engineering, inspections and legal support – greater than Ohio EPA has ever employed for environmental oversight of livestock and poultry facilities.

Public Comment: The purpose of these comments is to register a formal objection to the transfer of the permitting authority for NPDES permits from OHIO EPA to the Ohio Department of Agriculture. In matters regarding the protection of groundwater supplies when the potential exists for contaminating those sources through land application of manure generated by large scale confined animal feeding operations, the EPA is the agency that is best suited to deal with this issue. The Ohio Department of Agriculture lacks the expertise and the necessary degree of impartiality (since it clearly favors CAFOS) to objectively regulate such pollution. Additionally, The United States Environmental Protection Agency has yet to rule on the proposed transfer of this authority. Please remove consideration of this item from the Plan.

Response: Transferring jurisdiction for NPDES permits for CAFOs from Ohio EPA to ODA is a final decision that was made by the Ohio legislature. However, the United States Environmental Protection Agency must approve the transfer of jurisdiction, and will provide oversight of ODA's program as they do Ohio EPA's program. They are in the process now of assuring that ODA's program meets the Clean Water Act requirements. Prior to acting on Ohio's request to transfer CAFO NPDES delegation, U.S. EPA will be providing notice to the public and accepting comments and testimony related to the transfer. The state of Ohio submitted more than 1,600 pages of certified documents to the U.S. EPA showing that ODA meets – and in many cases exceeds – the minimum legal requirements of the Clean Water Act for permitting authority. ODA has a larger staff for engineering, inspections and legal support – greater than Ohio EPA has ever employed for environmental oversight of livestock and poultry facilities.

Public Comment: Page ix – OEC suggests adding a number 11 stating the need for public and community involvement and participation in activities to restore all aspects of the Lake. Whether it be for economic or environmental benefit (or both), no activity can succeed without the community notice, knowledge, and support. Suggested text: 11. Promote complete transparency, by providing complete and adequate notice, educational opportunities, and participation (where possible) to the public and affected community.

Response: The section referred to by this comment reflects a requested change to a piece of text which has been brought forward from the *LEPR 2000*. This section was initially included in the *LEPR 2000* to reflect a desire for the application of smart growth principles when making land use decisions within the watershed. It is our desire to maintain that set of principles in its original form at this time. It is agreed that public participation and community involvement is important for all planning and implementation projects managed by state entities within the watershed. The *Great Lakes Regional Collaboration* and the *LEPR 2000* both included large quantities of public input during their development, and both fed into the *LEPR 2008*. The *LEPR 2008* carried on the tradition of involving the public through the process that led to this particular public comment. Continued involvement of the public in such activities is necessary to ensure local support. This principle of public involvement should be applied to topics well outside the scope of the original ten principles referred to above.

Public Comment: Page 1 – How did OLEC come up with the 33%? A brief sentence or two as to why 33% is adequate/necessary and perhaps a cite to authority. It sounds like a worthy goal of 33%, but OEC believes the goal should be a bit higher, and we are certain others would suggest lowering that number. Therefore, some explanation would be helpful.

Response: As stated on pages 2-3, "The proposed 33% reduction continues the linear trend currently being achieved within the basin, according to data from the National Center for Water Quality Research. It is appropriate to maintain a goal that considers increasing stream flow patterns, more intense storm systems, and the ability of cleaner streams to pick up more materials from streambeds, thus limiting the total load reduction possible through upland

practices. The 2007 Maumee load was 736,000 metric tons. If used as a proxy for the western basin, the Maumee target for 2014 would be 495,000 metric Tons.” Additional goals may develop from the Ohio EPA led Lake Erie Phosphorus Task Force.

Public Comment: OEC would suggest consideration of funding for staff/personnel and administrative expenses for watershed groups implementing watershed plans. A successful plan can only be implemented with a secure and fully funded staff – it takes people to cause watershed problems and it takes people to restore these watersheds.

Response: The action items provide for support for the “development and implementation of Endorsed Watershed Action Plans” and make no judgments regarding specific staffing needs. These needs are likely variable between watersheds and communities, and it is recognized that it is necessary to have a capable staff to complete these tasks. The ODNR Division of Soil & Water Conservation offers competitive grants that fund the salaries of watershed coordinators who develop and/or implement watershed action plans. There are currently approximately twelve watershed coordinators utilizing this funding in the Lake Erie watershed. This year, the division intends to award six to eight additional grants.

Public Comment: A second bullet point under Develop an implementation strategy for the Coastal Nonpoint Pollution Control Program management measures not yet approved – OEC suggests *Begin efforts to implement the approved program.*

Response: All approved coastal nonpoint pollution control program management measures are currently being implemented and/or have an enforceable authority. Present and future efforts will address the implementation of those measures which have yet to be approved.

Public Comment: The length of time it is taking for US EPA to approve the transfer of NPDES permitting over CAFFS to ODA, is evidence that ODA-LEPP’s regulatory program and enforcement history and ability to enforce is not ready for primetime. More must be done under both statute and rule, as well as internal structure of ODA-LEPP to convince US EPA and for that matter OEC and its members that transferring discharge permitting

Response: Transferring jurisdiction for NPDES permits for CAFOs from Ohio EPA to ODA is a final decision that was made by the Ohio legislature. However, the United States Environmental Protection Agency must approve the transfer of jurisdiction, and will provide oversight of ODA’s program as they do Ohio EPA’s program. They are in the process now of assuring that ODA’s program meets the Clean Water Act requirements. Prior to acting on Ohio’s request to transfer CAFO NPDES delegation, U.S. EPA will be providing notice to the public and accepting comments and testimony related to the transfer. The transfer process required three pieces of legislation, numerous meetings and several rounds of adopting and amending rules before ODA filed an application with the U.S. EPA to issue and enforce NPDES permits. The application is

three volumes and 1,600 pages. It is not unreasonable to expect that a fair amount of time is needed to thoroughly review and approve an application of this magnitude. Additional statutory and regulatory changes made through ODA discussions with the USEPA were reviewed by the ODA CAFF Advisory Committee, and will be presented to the legislature. The final USEPA rules to address the Waterkeepers decision may require additional changes to the ODA program, but they are expected to be minor.

Public Comment: OEC suggests adding a bullet point addressing the need for ODA to convene a stakeholder committee to draft protective individual and general NPDES permits, if and/or when authority is granted.

Response: The jurisdiction for the NPDES permit was decided in 2000 when legislation authorized the Ohio Department of Agriculture to apply for authority to issue NPDES permits to CAFOs. The General NPDES permits will be reviewed by the statutorily mandated CAFF Advisory Committee consisting of environmental groups, citizen groups, commodity groups along with state and federal agencies prior to the public notice for public input. This procedure exceeds the federal requirements. There is nothing in this legislation that stipulates that protective individual and general NPDES permits should be drafted by a stakeholder committee.

Public Comment: Add ODA and OEPA to the third bullet point as lead actors. These three agencies must work together to create an even playing field for good environmental actors and especially to protect the quality of the waters of the state [under Reduce nonpoint source pollution originating from animal feed lots – pg. 5].

Response: After the transfer of CAFO NPDES authority from OEPA to ODA is approved by U.S. EPA, OEPA will have very limited interaction with individual farms for pollution events. OEPA's role will shift to coordinating with ODNR, ODA and other state and local agencies to ensure that water quality goals are being met overall, rather than responding to specific incidences. ODA, Ohio EPA, and ODNR have worked and will continue to work together closely to protect the waters of the state.

Public Comment: Under this bullet [Page 6, Demonstrate and evaluate self-forming stream channel...] point OEC suggests a revision to clarify the importance of this action and the goals. Suggested revision: Demonstrate and evaluate "self-forming stream" channel and other ditch construction and maintenance practices, that promote both water quality and water quantity benefits at various stream sizes.

Response: The ODNR Division of Soil and Water Conservation is updating the Rainwater and Land Development Manual to guide stream channel restoration activities. The division also works closely with landowners who wish to engage in stream restoration activities.

Public Comment: OEC suggests adding the Division of Wildlife as a recipient of some funding for its efforts, as well as consideration of a rapid response program [Invasive Species].

Response: State and federal budget items are outside of the scope of this plan. However, it should be noted that the Division of Wildlife does receive some federal funding for its statewide invasive species program. An action item for the development of a Rapid Response Plan has been added to the plan under the Invasive Species priority.

Public Comment: OEC also recommends adding an action item to develop an economic assessment of the tolls that invasives take on the basin economy at all levels.

Response: This comment will be taken into consideration for the next LEQI update. Several such studies have been completed at the Great lakes level to date.

Public Comment: Can you say let the foxes guard the chicken coop? Don't be ridiculous! Keep the monitoring of water quality under OEPA.

Response: OEPA will provide oversight of water quality in the state, but after the transfer of CAFO NPDES authority from OEPA to ODA is approved by U.S. EPA, OEPA will have very limited interaction with individual farms for pollution events. OEPA's role will shift to coordinating with ODNR, ODA and other state and local agencies to ensure that water quality goals are being met overall, rather than responding to specific incidences. OEPA will continue to do stream sampling/monitoring in the context of stream surveys and TMDLs, but ODA, ODNR and the SWCDs will be primarily responsible for responding to complaints and discharges from animal feeding operations.

Since it was created in 1876, the Ohio Department of Agriculture has regulated the agriculture industry. One in every seven Ohioans is employed in some aspect of food and agriculture. To fully ensure that there is not even the appearance of conflict, Director Boggs has reorganized the department into two reporting divisions. One division takes care of regulations and one division is strictly for promotion. Ninety-three percent of ODA's current budget is dedicated to regulatory responsibilities. Nine of the department's 10 divisions regulate. Only one promotes. The jurisdiction for the NPDES permit was decided in 2000 when legislation authorized the Ohio Department of Agriculture to apply for authority to issue NPDES permits to CAFOs. It has more staff and authority than Ohio EPA for regulation of large livestock facilities and does more onsite inspections and enforcement than could be done by Ohio EPA on livestock facilities.

Public Comment: My husband and I strongly urge you to not include in the 2009 – 2011 Action List and to delay approval by USEPA for transfer of NPDES permitting authority from the Ohio EPA to the Ohio Department of Agriculture until all federal Clean Water Act requirements are

met, including prohibiting land application of manure (animal wastes) on fields within a Drinking Water Source Protection Area.

Response: Transferring jurisdiction for NPDES permits for CAFOs from Ohio EPA to ODA is a final decision that was made by the Ohio legislature. However, the United States Environmental Protection Agency must approve the transfer of jurisdiction, and will provide oversight of ODA's program as they do Ohio EPA's program. They are in the process now of assuring that ODA's program meets the Clean Water Act requirements. Prior to acting on Ohio's request to transfer CAFO NPDES delegation, U.S. EPA will be providing notice to the public and accepting comments and testimony related to the transfer.

Public Comment: I strongly oppose inclusion of the above mentioned item [Pg 5, Acquire NPDES permitting authority via coordination with US EPA (ODA)] in the 2009 – 2011 Action List. I also strongly recommend a delay in approval by USEPA for transfer of NPDES permitting authority from the Ohio EPA to the Ohio Department of Agriculture UNTIL all federal Clean Water Act requirements are met, including PROHIBITING land application of manure (animal wastes) on fields within a Drinking Water Source Protection Area. Our drinking water supply is critical, and needs to be properly protected.

Response: Transferring jurisdiction for NPDES permits for CAFOs from Ohio EPA to ODA is a final decision that was made by the Ohio legislature. However, the United States Environmental Protection Agency must approve the transfer of jurisdiction, and will provide oversight of ODA's program as they do Ohio EPA's program. They are in the process now of assuring that ODA's program meets the Clean Water Act requirements. Prior to acting on Ohio's request to transfer CAFO NPDES delegation, U.S. EPA will be providing notice to the public and accepting comments and testimony related to the transfer.

Public Comment: As cited in http://www.healthylakes.org/site_upload/upload/America_s_North_Coast_Report_07.pdf, the leading problems facing Lake Erie addressed in the EPA report were contaminated sediments, sewage spills, invasive species, pollution runoff, and habitat destruction, particularly wetlands. The inclusion in the section addressing climate change in the Lake Erie Protection & Restoration Plan 2008 which includes actions to promote and develop wind installations is not at all reflective of any climate related activity but only serves to promote the administrations' self interests. Wind installations off shore and near shore will only exasperate invasive species, pollution runoff and habitat destruction, particularly wetlands and will negatively and forever reduce avian and fish populations. According to the Nature Conservancy, billions of migrating birds migrate through the Great Lakes. Scientists have identified the Great Lakes as one of the critical areas of bird migration. See http://www.nature.org/wherewework/northamerica/greatlakes/files/migratory_bird_fact_sheet.pdf

Birds weighing as little as a dime using the wind to power their movement from one continent to another cannot change their path. They will perish either through direct impact with wind turbines or through loss of important resting and feeding habitat. The area containing 1/3 of the world's fresh water is too important to make concessions and allow wind developers to negatively impact Lake Erie and its surrounding shore line through the erection of wind turbines in an already compromised area.

Response: The development of any source of energy is not without its potentially negative impacts on the environment, including the landscape, flora and fauna. The development of any wind power facilities must be considered in light of the impacts these facilities will have, relative to the impacts of oil, coal, and natural gas production, distribution, and use. The employment of a wind energy biologist within ODNR, Division of Wildlife, will provide for a scientific evaluation of the siting and use of such facilities.

Public Comment: We note that the *DRAFT Plan* plan seems devoid of any projects that increase or enhance natural areas and preserves along the Lake Erie coastline; nor does it mention or demonstrate the importance of natural areas and preserves to coastal tourism, environmental education and public access. For example, there is no mention of the 88-acre nature preserve at Dike 14, which is north of and adjacent to Cleveland Lakefront State Park–Gordon Park.

Response: The LEPR does not represent all activities of all entities working towards the improvement of Lake Erie. Many projects are ongoing with private, local, state, and federal involvement that are beyond the bounds of the Lake Erie Commission, and as such, are not included in this text. As well, the listing of every individual project of interest across the basin is not possible due to length considerations. Many individual improvement projects for parks and other facilities have not been included within this text. Action items relating to natural areas of significance and their economic, educational, historical, and environmental benefits can be found several places within the plan (pages 30, 31, 39, 40, 42, 47, and 48). There are no Lake Erie Commission action items currently associated with Dike 14. Funding from a variety of sources, including the Lake Erie Protection Fund, could be used for projects on site at Dike 14 that address the Strategic Objectives within the LEPR.

Public Comment: On Page 37, Sustainable Development, Enhance and increase public access opportunities to Lake Erie, public beaches, parks, nature preserves, and wildlife areas – FY 2009-2011 Actions, PLEASE ADD: Acquire the 88-acre Dike 14 nature preserve adjacent to and north of Cleveland Lakefront State Park–Gordon Park as a State Nature Preserve and coordinate with local environmental education organizations for trail development, programming and funding possibilities. → ODNR

Response: ODNR is considering the cost/benefits of acquiring Dike 14 as a nature preserve. It is premature to list this as an endorsed action.

Public Comment: On Page 37, Sustainable Development, Enhance and increase public access opportunities to Lake Erie, public beaches, parks, nature preserves, and wildlife areas – FY 2009-2011 Actions, PLEASE ADD: Cleveland Lakefront State Park–Gordon Park – Improve picnic areas and landscaping.→ ODNR

Response: The ODNR's Division of Parks & Recreation is continually updating its facilities. Unfortunately, the Division has millions of dollars in deferred maintenance and is updating its facilities in an incremental approach. The concerns about the addition of picnic areas and landscaping are understood by the state park management team and as priorities allow, the ODNR will do its best to make such improvements to the Gordon Park area.

Public Comment: On Page 40, Sustainable Development, Provide adequate harbors of refuge and transient boat dockage and launch facilities along the Lake Erie shoreline – FY 2009-2011 Actions, PLEASE ADD: Design and implement expansion of Cleveland Lakefront State Park–East 55th Street Marina on a new 50-acre confined disposal facility (CDF) to be added to the current E. 55th Street Marina site. → ODNR

Response: The ODNR is aware of the Port Authority and U.S. Army Corps of Engineer's plan to create a new port and dredge material relocation area respectively at the site of the current E 55th Street Marina. At this point, the ODNR awaits additional information and has made no decision regarding the proposed relocation.

Public Comment: On Page 41, Sustainable Development, Provide adequate harbors of refuge and transient boat dockage and launch facilities along the Lake Erie shoreline – FY 2009-2011 Actions, PLEASE EDIT AS FOLLOWS: Cleveland Lakefront State Park – Gordon Park Boat ramp rehabilitation. (~~Possible Port relocation~~). → ODNR

Response: The concerns about the need to improve the Gordon Park launch ramp are understood by the state park management team at the ODNR; plans to upgrade the existing ramp are currently in progress through the benefit of grant funds provided by the Division of Watercraft. However, it is understood that the Gordon Park area is a site that is identified by the Port Authority for potential relocation of the E 55th Street Marina. Should such a relocation occur, the look of the area is likely to substantially change; such change could possibly impact the launch ramp area.

Public Comment: The League of Women Voters Oberlin Area opposes inclusion of the above mentioned item [acquire NPDES permitting authority via coordination with USEPA (ODA)] in the 2009 – 2011 Action List; and we strongly recommend a delay in approval by US EPA for transfer of NPDES permitting authority from the Ohio EPA to the Ohio Department of Agriculture

until all federal Clean Water Act requirements are met, including prohibiting land application of manure (animal wastes) on fields within a Drinking Water Source Protection Area. As science librarian of Oberlin College, I am familiar with the scholarly literature that documents hazards to Lake Erie from soil runoff, surface and groundwater contamination from agricultural practices. There must be strict oversight of agriculture and its impact on the environment, to safeguard water, air and soil quality and protect human health. The US EPA is the appropriate agency for this monitoring. Lake Erie is too critical to the future of this state and the nation to lessen our vigilance to keep its waters in relative balance for healthy productivity, drinking water supply and recreation.

Response: Transferring jurisdiction for NPDES permits for CAFOs from Ohio EPA to ODA is a final decision that was made by the Ohio legislature. However, the United States Environmental Protection Agency must approve the transfer of jurisdiction, and will provide oversight of ODA's program as they do Ohio EPA's program. They are in the process now of assuring that ODA's program meets the Clean Water Act requirements. Prior to acting on Ohio's request to transfer CAFO NPDES delegation, U.S. EPA will be providing notice to the public and accepting comments and testimony related to the transfer.

Public Comment: "...The acquisition of the NPDES permitting authority by the Ohio Department of Agriculture greatly concerns me in light of the fact that the ODA's current permitting program does not meet the minimum standards of the NPDES Program..." [full comment not provided here due to consideration of its length]

Response: Transferring jurisdiction for NPDES permits for CAFOs from Ohio EPA to ODA is a final decision that was made by the Ohio legislature. However, the United States Environmental Protection Agency must approve the transfer of jurisdiction, and will provide oversight of ODA's program as they do Ohio EPA's program. They are in the process now of assuring that ODA's program meets the Clean Water Act requirements. Prior to acting on Ohio's request to transfer CAFO NPDES delegation, U.S. EPA will be providing notice to the public and accepting comments and testimony related to the transfer.

Since ODA assumed the responsibilities of permitting and inspecting Concentrated Animal Feeding Operations (CAFOs) in August 2002, there have been strict rules to regulate the timing and rate of manure application, as well as the location, weather and soil conditions. For the first time specialized agriculture inspectors enforce regulations developed with the environmental community that far exceed federal standards in 14 areas, and are based on sound science.

Public Comment: Page 3, Coastal Nonpoint Pollution Control Program: We commend the watershed coordinator program.

Response: The program has been successful at achieving the endorsement and implementation of watershed action plans due in large part to local leadership and participation. Much of the praise belongs at the local level.

Public Comment: Page 4, Pesticides and Fertilizers: Establish and promote a precision farming program, using GPS to apply the correct amounts for each field and crop. Consider the toxicity of many of these chemicals, e.g. atrazine.

Response: The ODNR Division of Soil and Water Conservation and the Ohio Department of Agriculture work closely with the Federal Farm Service Agency, the Natural Resource Conservation Service, and the Ohio State University Extension to assist farmers with proper application of pesticides and fertilizers. Local Soil and Water Conservation Districts also work voluntarily with landowners to assist with promoting proper usage of pesticides and fertilizers. Precision farming is currently available in the agricultural industry. As funds become available, along with the university research documenting the success of precision farming, promoting these practices will be beneficial for the proper use and management of our natural resources.

Public Comment: Page 4, Coastal Nonpoint Program: Important!

Response: It is agreed that the implementation of this program is important for the health of Lake Erie. The comment is noted and appreciated.

Public Comment: Page 5, Concentrated Animal Feeding Facilities: Do not transfer NPDES permitting authority from Ohio EPA to Ohio Dept. of Agriculture until all federal Clean Water Act requirements are met, including prohibiting land application of manure (animal waste) on fields within a Drinking Water Source Protection Area.

Response: Transferring jurisdiction for NPDES permits for CAFOs from Ohio EPA to ODA is a final decision that was made by the Ohio legislature. However, the United States Environmental Protection Agency must approve the transfer of jurisdiction, and will provide oversight of ODA's program as they do Ohio EPA's program. They are in the process now of assuring that ODA's program meets the Clean Water Act requirements. Prior to acting on Ohio's request to transfer CAFO NPDES delegation, U.S. EPA will be providing notice to the public and accepting comments and testimony related to the transfer.

Public Comment: Livestock operations that are polluting or have a high potential to discharge: Monitor and report results. Please investigate possible arsenic pollution.

Response: Transferring jurisdiction for NPDES permits for CAFOs from Ohio EPA to ODA is a final decision that was made by the Ohio legislature. However, the United States Environmental Protection Agency must approve the transfer of jurisdiction, and will provide oversight of ODA's program as they do Ohio EPA's program. They are in the process now of assuring that ODA's program meets the Clean Water Act requirements. Prior to acting on Ohio's request to transfer CAFO NPDES delegation, U.S. EPA will be providing notice to the public and accepting

comments and testimony related to the transfer. OEPA will continue to do stream sampling/monitoring in the context of stream surveys and TMDLs, but ODA, ODNR and the SWCDs will be primarily responsible for responding to complaints and discharges from animal feeding operations

Public Comment: Page 7, Harmful algal blooms: Important!

Response: It is agreed that this is an important issue.

Public Comment: Page 8, Prohibition of open lake disposal...: Important to retard the spread of harmful algae such as *lyngbya*.

Response: Ultimately, the elimination of all open lake disposal is desirable. Viable alternatives must be explored and implemented before this will become a reality. Work over the next two years should make progress towards this end, by reducing the amount of open lake disposal allowed. As well, the comment assumes that there is a direct connection between open lake disposal and the spread of *lyngbya*. This has not been scientifically proven, and any actions taken based on this assumption may fail to have an impact on blooms. Sound science is necessary to ensure that funding is directed towards the proper responses to HABs.

Public Comment: Page 9, Invasive Species: "...now impacted the Great Lakes."

Response: Change has been made to reflect the proper tense.

Public Comment: Page 10: Work with the landscaping and aquarium trade to address invasive species in Ohio and promote native species.

Response: Many invasive species issues will be addressed in Ohio's Comprehensive Management Plan for aquatic invasive species. Updating this plan and developing a Rapid Response Plan has been included under the Invasive Species priority.

Public Comment: Page 12, Home Sewage Treatment Systems: All good steps. Important to restore stricter standards.

Response: ODH continues to work with interested parties in the development of sewage treatment standards. Ultimately, the reduction of impacts from these sources is important to the health of small tributary streams, large rivers, and beaches along Lake Erie

Public Comment: Page 12, Combined Sewer Overflows and SSOs: Important to finalize LTCPs currently under negotiation with state and federal agencies. Benefits to the economy and to all Ohioans and visitors who use and enjoy Lake Erie.

Response: This is the goal of the first action item under this strategic objective. Out of 61 communities with CSOs, 46 have approved LTCPs and are building projects under that LTCP. Of those 46 communities, 13 have already installed all the controls required under their plan. That said, the volume of overflow from the communities in the Cleveland and Akron area, which is estimated at over 7 BG in a typical year, remains a major concern. Ohio EPA and USEPA are working to try and reach agreement with the respective communities on these LTCPs.

Public Comment: Page 15, Information to the public on potential risks at Lake Erie bathing beaches: Important! Implement same-day beach advisory systems, and disseminate this to the public.

Response: ODH provides funding through the Federal Beach Monitoring Grant from the US EPA to help support same-day beach advisory systems. Additionally, LEPP dollars have gone to support models for same day advisories at multiple beaches and on the Cuyahoga River. These projects are important to the health of Ohio's Lake Erie Beaches and to help promote the use of Ohio's recreational waters.

Public Comment: Page 20, Areas of Concern, Sustainable funding mechanisms: Important!

Response: Sustainable funding for projects and staff is important to implementing these programs.

Public Comment: Page 20, Align the plans and activities... Change 'duplicity' to 'duplication.'

Response: Change has been made.

Public Comment: Page 21, Toxic Pollutants: Do need research on sources, transport, persistence and impacts, but also need to revise our system for controlling toxic materials to a "precautionary approach" as recommended by the International Joint Commission (Priorities – 2003-2005). [Attachment provided, but not included here]

Response: Ohio EPA conducts and participates in the ambient air toxics monitoring studies and other research. We cooperate with and support air toxics research conducted in Ohio by other entities, both public and private. Ohio EPA has recently passed legislation that prescribes the method by which Ohio EPA permits new sources of air toxic pollutants. This method is

designed to be protection of public health and is the process we use for permitting for the foreseeable future.

Public Comment: Page 22, Sport fish consumption advisories: Important! What a boost to tourism and Ohioan's quality of life if we could eliminate the need for such advisories.

Response: The impact on tourism and recreational and commercial fishing could be very important for Ohio if contamination was reduced and advisories were no longer needed. Continuation of the sport fish advisory program advises the public of current health risks and indirectly promotes awareness and support for clean up actions.

Public Comment: Page 23, Toxic Release Inventory reports: Important!

Response: It is agreed that this is an important issue.

Public Comment: Page 24, Assure compliance...: Since 9 of the top 10 polluters in Ohio are coal-fired power plants, according to the TRI, work with them on a program of pollution prevention and source reduction, with incentives for energy efficiency and demand-side management. Also New Source Review for new and expanded facilities.

Response: Ohio EPA has an active new source review program for new and modified sources of air pollution. All applicable laws and pollution limits will be applied to these sources in Ohio as appropriate. Ohio EPA also applies all requisite rules and regulations to the coal-fired power plants located in the state.

Public Comment: Page 24, Eliminate brownfield sites: Work for renewal of the Clean Ohio Fund.

Response: The renewal of the Clean Ohio Fund has been supported by a wide variety of stakeholders and elected leaders.

Public Comment: Page 26, Protect and restore wetlands...: In Section 401 certification of wetland projects, stress avoidance of impacts, with mitigation only as a last resort.

Response: The Ohio EPA and the U.S. Army Corps of Engineers work very hard with the regulated community to avoid and minimize potential wetland impacts authorized through the state and federal regulatory process. At the same time we must ensure that we maintain an appropriate balance between economic development, the public's ability to enjoy the resource along with environmental protection.

Public Comment: Page 27, Lake Erie Shore Erosion Management Plan: Important!

Response: It is agreed that implementation of this task is important for the health of Lake Erie.

Public Comment: Page 28, Removal of Ballville Dam; Strategy for water quality at dams and impoundments: Important!

Response: It is agreed that implementation of this task is important for the health of the Sandusky River and Lake Erie.

Public Comment: Page 33, Sustainable Development: This entire section is well done and important!

Response: Wise use of our resources both now and into the future will provide for a healthy environment and a strong economy. Thank you for the comment.

Public Comment: Page 40, Harbors of refuge and boat dockage...: All must be appropriate in scale and protect local natural, historical and cultural resources.

Response: ODNR considers natural, historical, and cultural resources when evaluation regulatory applications for new or expanding recreational boating facilities. Such consideration includes the minimization of the occupation of Lake Erie by associated structures, including breakwaters, docks, and other boating-related functions. This ensures that such facilities are appropriate in scale.

Public Comment: Page 42, Strategy to support GLRC goals and objectives: FY 2009-2011 Actions: Is no one in charge?

Response: These tasks have been assigned to agencies as appropriate. The final decision on the proper agency for these tasks had not been made when the Draft LEPR 2008 was released.

Public Comment: Page 46, Great Lakes Compact: Easy to update this section. The task is to work for ratification by Congress and to develop implementing legislation for Ohio.

Response: This section has been updated to address progress since the draft plan was released for comment on June 13, 2008.

Public Comment: Page 51: Change 'sighting' to 'siting' (twice).

Response: Changes made.

Public Comment: Climate Change – pgs 47-51. We commend the addition of the section on Climate Change to the LEPR Plan because of the importance of this issue and the impacts on the Great Lakes Basin Ecosystem. We support Governor Strickland’s Executive Order 2007-02S, that challenges all state agencies, boards, and commissions to endeavor to achieve and overall reduction in building energy use for their facilities by 15%. Be sure that funds are included in their budgets to invest in the measures to accomplish this objective, since many have quick paybacks and will save money for future operations. Both structural and nonstructural measures should be evaluated, such as flex-time, temperature adjustments in winter and summer, and planting shade trees. Top priority must be to increase energy efficiency, for example, replacing boilers, windows and doors, and insulation.

Response: State budget items are outside the scope of this plan. However, sustainable building design and maintenance is recognized as an important component to attaining the goals set forth in the Executive Order. The State of Ohio is supportive of a wide variety of activities aimed at addressing climate change. We will take this comment under advisement as we implement these initiatives.

Public Comment: We agree that it is the responsibility of state government to lead by example in reducing energy consumption. (Page 48): Coordinate...: Join the Midwestern Greenhouse Gas Reduction Accord as a participant.

Response: The comment has been noted and appreciated. The State of Ohio is actively engaged in the MGGRA process as an observer, and will continue to evaluate the potential to sign on in the future. As previously mentioned, the State of Ohio is supportive of a wide variety of activities aimed at addressing climate change. We will take this comment under advisement.

Public Comment: Page 48: Investigate potential use of wind power as an alternative energy source: Take into account impacts on birds and bats. Where wind turbines are proposed in Lake Erie, carefully assess the lakebed to identify where such development could occur without adverse impacts to the lake, aquatic life, shipping, and recreational use of the lake. Also identify areas in the lakebed where structures, cables, or construction disturbances must be avoided.

Response: Many factors are considered in the siting of a wind energy facility, not only by ODNR, but also by the Ohio Power Siting Board and by the developers of the project. The ODNR Division of Wildlife is currently drafting monitoring guidelines for proposed on- and off-shore wind turbine facilities to help evaluate whether the proposed facility would pose a significant threat to Ohio’s wildlife resources. Additionally, the Ohio Wind Working Group – comprised of stakeholders including government agencies, wind developers, and environmental

advocacy groups – provides a formal collaboration mechanism to ensure that wind power is developed in a sustainable manner.

Public Comment: Investigate use of passive solar, photovoltaic panels, solar hot-water heating, and other renewable energy usage at state facilities. Benefits include reduced air pollution, especially in non-attainment areas of the state, such as northeast Ohio. Support new and expanded Ohio businesses for these purposes.

Response: The use of advanced energy technologies is recognized as an important component to sustainable facility design and maintenance. In some cases, such technologies are being employed at state facilities. We will take this comment under advisement as we continue to implement initiatives aimed at reducing the state's impact on carbon emissions and climate change.

Public Comment: Page 49: We support “green building” practices and recommend that new facility construction be LEED-certified.

Response: The use of green building practices is recognized as an important component to sustainable facility design and maintenance. Several state facilities have already been LEED-certified. We will take this comment under advisement as we continue to implement initiatives aimed at reducing the state's impact on carbon emissions and climate change.

Public Comment: Agriculture: Note that fertilizers and pesticides use fossil fuels in their manufacture and use. Do a pilot project to use precision farming to apply exactly the amounts needed for each crop and field, using GPS.

Response: Specific pilot projects are not identified in this plan, as this plan is intended to set broader goals and action items for future years. However, agricultural practices using innovative practices and technologies are recognized as important and are encouraged through a variety of grant funds and other programs administered by the member agencies of the Ohio Lake Erie Commission.

Public Comment: Reforestation: Need a protocol to measure results in carbon sequestration, subtracting carbon released through logging, fires, etc.

Response: Carbon sequestration can be modeled. Such protocols are in existence and are constantly being refined. If an adequate baseline can be established, the effect of a reforestation effort could be measured.

Public Comment: Page 50: While planning for the production and use of electricity, the first step in keeping it affordable is to establish and fund a program for demand-side management, such as peak-shaving, lighting, cogeneration, fuel-switching, heat exchangers, etc.

Response: Planning for statewide energy use and state budget items are beyond the scope of this plan. We will take this comment under advisement as we continue to implement initiatives aimed at reducing the state's impact on carbon emissions and climate change.

Public Comment: Transportation policies must be added to this plan, using results to date from ODOT's 21st Century Transportation Priorities Task Force, that held public meetings in May and June. Note that transportation, land use planning, and air quality are all inter-related. Recommend:

- Specify increased state support for ride-share, public transit, and trails.
- Do a pilot project on congestion pricing.
- Amend state law to permit state funds to be used for public transportation.
- Require reconsideration of all proposed and ongoing highway construction and expansion, in light of extreme gasoline prices and the evolving change in vehicle use.
- Consider the increasing urgency of global warming requirements proposed by a new federal administration (without blinders on).
- Appoint an advisory council to consider on an emergency basis a state approach to climate change, and to urge federal action as well, in light of the tipping points that have already happened or are anticipated.

Response: ODOT is actively engaged in the 21st Century Transportation Priorities Task Force and once final recommendations have been adopted, an update reflecting the conclusions can be provided for incorporation into the LEPR.