



LAKE MICHIGAN FEDERATION

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**Testimony of Cameron Davis, Executive Director
before the
U.S. Commission on Ocean Policy**

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Introduction

The Great Lakes are one of the most magnificent, vibrant, and astonishing natural treasures on Earth. The proof is everywhere you look, from the wilds of Ontario and Michigan's Upper Peninsula, to their thousands of islands, to the beaches and bustling of their cities. The Great Lakes are more than big pools of water. They're the people and animals that use them. They're the airsheds that hover over the watershed. They're the forested, agricultural, and urban lands that drain into them and, they're shoreline communities, large and small.

If you ever need proof that the Great Lakes are an international treasure, all you need to do is look outside the window. The Chicago lakefront receives some *60 million visits per year* from residents and international visitors alike.

A number of years ago, when I was deciding whether to take the job of executive director of the Lake Michigan Federation, the oldest citizens' Great Lakes organization in North America, a friend suggested I take a walk by the lake and see what it told me. I decided to do one better. As soon as the water warmed up, I took a swim at a beach not far from where we are here today and dove underwater. I stayed beneath the surface as long as I my lungs would allow. And I listened.

Today I want to share with you what I heard—what many of us who are inspired by the region's waters hear, touch, and see every day we live, work, and play around our coasts.

Recommendations

My temptation is to focus on any one of the hundreds if not thousands of natural resource issues confronting the Great Lakes, but I want to take us to a deeper thermocline to talk about some of the approaches, policies, and systems that bear on good natural resource management and stewardship, punctuating those recommendations with examples. After 16 years of Great Lakes work as an organizer, attorney, manager, and citizen, these are the things the ecosystem is telling me it needs.

Bring Fish and Wildlife Habitat Back to our Cities

For decades, America's cities have been written off as sacrifice zones for fish and wildlife habitat. There is a growing movement afoot, however, by volunteers, civic organizations, and

scientists to bring aquatic habitat back to the urban waterfront in a way that never seemed possible before.

In what is considered the first major land use plan for an American city, the 1909 Plan of Chicago wrote about the need for city dwellers to experience the wilds within their own backyards:

Both the water front and the near-by woodlands should be brought within easy reach of all the people ... All of us should often run away from the works of men's hands and back into the wilds, where mind and body are restored to a normal condition, and we are enabled to take up the burden of life in our crowded streets and endless stretches of buildings with renewed vigor and hopefulness. Those who have the means and are so placed in their daily employments that they can do so constantly seek the refreshment of the country. Should not the public see to it that every one may enjoy this change of scene, this restorer of bodily and mental vigor, and will not citizenship be better thereby?¹

Today, nearly a century later, we're seeing that nature is good for the urban economy, good for the soul, and that it helps fashion a better citizenry. For example:

- Nature-based recreation like kayaking and “birding” is a booming industry. More businesses are competing to show that they're going beyond producing goods and providing services to caring for nature.
- Urban habitat allows large cross sections of society to see the value of fish and wildlife that otherwise might not get to interact with other residents of our biosphere. This can then translate into support for habitat legislation and funding initiatives.
- It's not enough to protect the habitat that's left. If nature is our life support system, our growing population needs more habitat. Cities may offer some of the best remaining chances to bring habitat back.

With the avid support of Mayor Daley, environmental organizations, agencies, foundations, and other supporters, Chicago is beginning to prove that nature can thrive in cities, to the benefit of people, fish, and wildlife, at the same time and in the same places. The tri-state region is home to Chicago Wilderness, a coalition of more than 100 agency, academic, and nongovernmental organization members dedicated to the protection and restoration of a 200,000 acre nature reserve here in the region that serves as a biodiversity reservoir. In 1999 it finalized a *Biodiversity Recovery Plan* that was awarded national honors in 2001 by the American Planning Association. The plan guides the work of coalition members by setting biodiversity recovery goals for specific ecosystems and designating methods to reach these goals.

¹ Daniel Burnham & Edward Bennett, 1909 Plan of Chicago.

The Lake Michigan Federation is launching an Urban Aquatic Habitat Initiative² to restore coastal habitat following a basic three-step process: 1) developing biodiversity and habitat recovery goals, 2) implementing those goals on a site-specific basis, and 3) working collaboratively with volunteers and other stakeholders from plan development to actual restoration work.

Management Regimes Must Achieve Restoration

I remember going on a camping trip when I was in the third grade Cub Scouts. Everyone was excited for the weekend and running wild, but when we were told to “listen up” by one the expedition’s leaders, the number one instruction was: “you need to leave your campsite better than the way you found it.”

Our federal and state laws attempt to ensure that no harm is done to our waterways. For example, under the Clean Water Act, many of our state water quality standards are based on achieving something called “assimilative capacity.” In practice, this means that pollutants may be allowed into waterways at levels we believe will not injure human health or aquatic life.

In other words, ironically, the Cub Scout motto of leaving a site better than the way you found it is tougher than some of our most honored federal laws that say all you need to do is leave a site in as good a condition as the way you found it. That needs to change.

Thankfully, one management regime is under development now that will usher in that change: “Annex 2001.”

Though seemingly vast, the Great Lakes ecosystem is finite. With the United Nations predicting that by the year 2025, global water demand for clean water will outstrip supplies for about 60 percent of the world’s population, and with our region’s own water uses extremely wasteful in their own right, the need to conserve the Great Lakes will only increase in importance. Anticipating these increased supply needs, the governors of the Great Lakes states met at Niagara Falls in June 2001 to announce their agreement to develop “Annex 2001,” a water management system that “protects, conserves, restores, and improves the Waters and Water-Dependent Natural Resources of the Great Lakes Basin.”³

Annex 2001 calls for decision making standards that govern the conditions under which water may be withdrawn from the Great Lakes Basin. Under Directive #3 of the Annex, the standards and the proposed withdrawals that must achieve them must comport with the following principles:

- Compliance with applicable state, provincial, federal, and international laws and treaties;

² The Urban Aquatic Habitat Initiative is supported with the generous backing of U.S. Environmental Protection Agency, U.S. Fish & Wildlife Service, Gaylord & Dorothy Donnelley Foundation, and the Charles Stewart Mott Foundation through the Great Lakes Aquatic Habitat Network & Fund.

³ Annex 2001 is on the Council of Great Lakes Governors website at: www.cglg.org/projects/water/Annex2001.pdf

- Preventing or minimizing Basin water loss through return flow and implementation of environmentally sound and economically feasible water conservation measures;
- No significant or individual or cumulative impacts to the quantity or quality of the Waters and Water-Dependent Natural Resources of the Great Lakes Basin; and
- An Improvement to the Waters and Water-Dependent Natural Resources of the Great Lakes Basin

If approved for a water withdrawal, project proponents have to go beyond minimizing their withdrawals. They have to go beyond demonstrating that their efforts won't harm the Basin's natural resources. In addition, they have to do something to restore the physical, chemical, and biological integrity of the Great Lakes and their natural resources. While a diversity of organizations are now working to define what these principles might mean, they all agree on at least two of the most important things: (1) authority for managing the future of the region's water must continue to be vested in the region, and (2) the resource must be managed in a way that continues to provide for a sustainable environment and economy at the same time.⁴

We Need Direct Citizen Participation in Establishing Clear Restoration Priorities

The Great Lakes region has had a strong historical leadership role in ecological research, much of which has led to the identification of problems in other ecosystems. Because of this, the Great Lakes have a vast warehouse of treaties, agreements, and plans to guide us toward the restoration of this magnificent ecosystem that provides drinking water, recreation, jobs, and an overall quality of life to the people who live here and visit from around the world.

As Daniel Burnham and Edward Bennett were finalizing their Plan of Chicago, the United States and Canada were signing the Boundary Waters Treaty of 1909. It provided a structure for the binational management of the transboundary waters.

By the 1970s, it was clear that new management structures were needed beyond the Treaty to confront emerging issues. The two governments signed the Great Lakes Water Quality Agreement in 1972, amending it in 1978 and adding protocol to it in 1987. Through its evolution, the Agreement became precedent setting globally by taking a more holistic, ecosystem-based approach to Great Lakes protection, going beyond the traditional chemical-by-chemical approach.⁵ Under the Agreement we also have "Lakewide Management Plans" and the U.S. EPA's "Great Lakes Strategy 2002."

⁴ The Council of Great Lakes Industries (CGLI), Lake Michigan Federation, Policy Solutions, Ltd.(PSL), and West Shore Water Producers Association, and CH2M Hill, with the generous support of the Great Lakes Protection Fund, are working to help define what an "improvement" is under Annex 2001. Though the views in this testimony is not necessarily reflective of theirs, the Federation also thanks Henry Henderson (PSL) and George Kuper (CGLI) for their thoughts on Annex 2001. The Lake Michigan Federation would like to recognize the special efforts of Andy Buchsbaum and Clive Lipchin of the National Wildlife Federation and Reg Gilbert of Great Lakes United for their leadership in the NGO community on this issue.

⁵ For an excellent assessment of the Agreement's effectiveness and Great Lakes regional governance, see *The Great Lakes Water Quality Agreement: Its Past Successes and Uncertain Future*, by Lee Botts and Paul Muldoon.

The Great Lakes are also unique because of the “Public Trust Doctrine,” established when Congress made way for regional statehood under the Northwest Ordinance of the 1700s. The Doctrine’s principles—that the Lakes, lakebottom, and associated resources are held in trust for the people of the states, not owned by the states or private interests—was upheld in a Supreme Court case based on events that took place just outside of where we’re meeting today.⁶ The Doctrine means that citizens have special rights that may not exist elsewhere in the world.⁷

We have no shortage of plans, many of which prescribe restoration efforts within budgetary limitations. But, we need to start with what the ecosystem is telling us it needs so we can assure the ecosystem will meet the needs of future generations. Then we prioritize those needs and figure out how to pay for them. By only setting goals based on what we can pay for belittles our creative financing abilities and sells our future generations short.

As a result, we recommend two things. First, we need a process by which to create a master action agenda that: (a) prioritizes the hundreds if not thousands of recommendations from all these documents, and (b) articulates what the ecosystem itself needs in terms of funding to be a healthy life support system for current and future generations.

Second, we need direct citizen group participation in commissions, task forces, and other bodies to oversee efforts for ensuring that real ecosystem and public health are protected. This will enhance the important balance of authority that now exists, but isn’t necessarily recognized among federal, state, municipal, tribal, public, and other interests.

Conclusion

Any good testimony is a team effort and this certainly was.⁸ In summary, we urge the Commission to find ways for restoring, not just protecting what’s left of our nation’s coastal resources. We recommend that policies and funding priorities facilitate the recovery of habitat in our nation’s cities. And, we recommend that a master restoration action plan for the Great Lakes be developed with direct participation from citizens’ groups, not just indirect representation through government agencies. The great thing about these recommendations is that they can be transferred to oceans and other ecosystems far and wide.

These are the things that the ecosystem is telling many of us who are listening.

Thank you for your time today.

⁶ The seminal Public Trust Doctrine case originated in Chicago’s Grant Park. See the U.S. Supreme Court’s ruling in Illinois Central R.R. v. State of Illinois, 146 U.S. 387 (1892).

⁷ At least one court federal court found that states cannot be automatically deemed to speak on behalf of their citizens when it comes to public trust resource challenges. Lake Michigan Federation v. United States Army Corps. Of Engineers, 742 F. Supp. 441, 446 (N.D. Ill. 1990) (a “legislative determination . . . is no obstacle to” the court concluding that a grant of lakebottom to a private entity “was in breach of the public trust.”)

⁸ Ted Beattie and the staff of the Shedd Aquarium have shown monumental dedication to ensuring a successful Commission hearing this week. I would especially like to thank Dave Dempsey, the Michigan Environmental Council, and Joyce Foundation for their support of efforts to examine how Great Lakes governance, including many considered by the Commission, can always be improved. Thanks also to Lee Botts, and the staff of the Lake Michigan Federation.