



Great Lakes Fishery Commission

ESTABLISHED BY CONVENTION BETWEEN CANADA AND THE UNITED STATES TO IMPROVE AND PERPETUATE FISHERY RESOURCES

INTERGOVERNMENTAL RELATIONS IN GREAT LAKES FISHERY MANAGEMENT

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INTRODUCTION

Today's Great Lakes fishery manager is part biologist and part diplomat, working to protect a complex, interconnected fishery in a parochial and politically fragmented regime. While the fishery manager is accountable to the government agency that employs him, he also works within a tightly knit community of peers who must work cooperatively to achieve common fishery objectives.

There exists no binding, centralized authority to compel cooperative fishery management on the Great Lakes. Instead, eight states, the province of Ontario, two nations, and two intertribal agencies have the right to manage their piece of the fishery in the manner they choose. Moreover, both Canada and the United States prohibit their sub-national governments from entering into binding agreements with foreign governments, which limits the ability of sub-national governments to create more formal mechanisms of cooperation.

To complicate the matter, fishery management occurs in the context of ecosystem management, an approach to management that involves many layers beyond just the fishery. For instance, adoption of the ecosystem approach means fishery managers coordinate their efforts with environmental agencies like the U.S. EPA, Environment Canada, and the International Joint Commission.

Because of the number of independent players involved in fishery management, this regime has all the makings of an intergovernmental-relations nightmare.

To manage the resource in this unique setting, the sub-national governments developed and adhere to A Joint Strategic Plan For Management of Great Lakes Fisheries, a non-binding agreement. The Joint Strategic Plan calls for cooperation among the jurisdictions, development of shared fish community objectives, data sharing, and adherence to ecosystem management, among other things.

This presentation discusses jurisdictional issues in managing the Great Lakes fishery and the strategies governments have used to maximize cooperative fishery management.

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THE THREE PILLARS OF GREAT LAKES FISHERY MANAGEMENT

Great Lakes fishery management rests on three pillars (figure 1):

1. The sub-national governments (states, the province of Ontario, and the two U.S. intertribal agencies), operating through their own agencies and collectively through A Joint Strategic Plan for Management of Great Lakes Fisheries;
2. The U.S.-Canadian Great Lakes Fishery Commission, operating under a binational treaty; and
3. The federal governments, operating through various federal laws and initiatives.

Sub-national Management Authority

Primary management authority rests on the first pillar: the states, the province, and two U.S. intertribal agencies. Each of these sub-national entities has an independent right to manage its portion of the fishery in the manner it chooses. This sub-national management authority has been long-established, through common law and court cases. For instance, although the British North America Act gives the Canadian federal government control over inland fisheries, the act also allows the provinces to retain ownership of lake and river beds and, it has been ruled, the riparian rights to the fish. Through the federal Fisheries Act, the Canadian government maintains the right to make and enforce fisheries regulations and policies pertaining to the conservation of fish stocks within Canadian waters. Much of the authority to implement these policies and to enforce these regulations has been granted to Ontario. In the United States, early Supreme Court decisions upheld the states' ownership of lake and river beds and, thus, the fish in those waters.

In the U.S., tribes have management authority on their reservations and in waters ceded through treaties. In Canada, there are still many unresolved and emerging issues with first nation fishery management and, thus, the rights of first nations to manage their own fishing activities is less developed than in the United States.

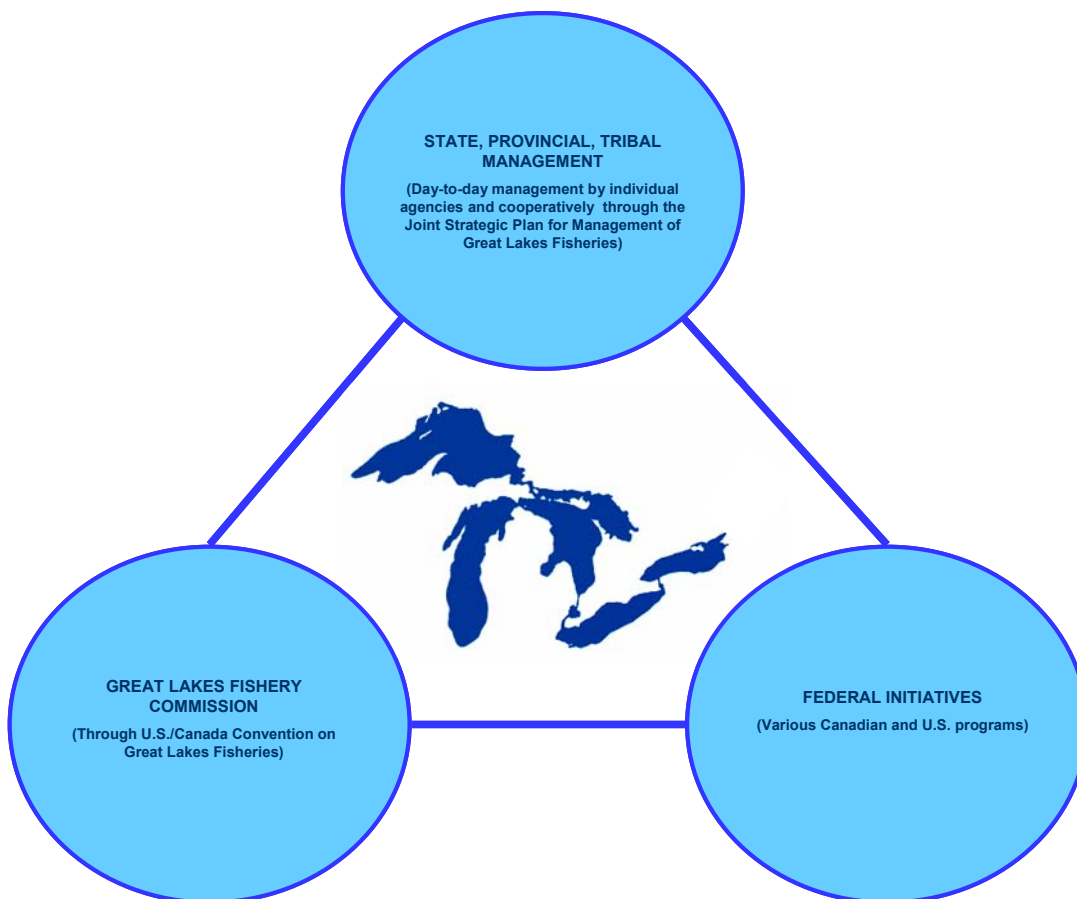


Figure 1: The three pillars of Great Lakes fishery management

On a day-to-day basis, the states, the province, and the two U.S. intertribal agencies generally have the authority to:

- Establish and enforce harvest regulations
- Issue fishing licenses
- Stock fish
- Undertake various fishery rehabilitation initiatives
- Carry out assessment activities, and
- Undertake measures to protect habitat.

Bi-national Management Authority

The second pillar of Great Lakes Fishery Management is the Great Lakes Fishery Commission, the binational fishery institution on the Great Lakes, established by a treaty between Canada and the United States in 1955. The commission has limited authority on the Great Lakes, largely because, for decades, the states and the province were reluctant to cede management authority to a bi-national body.

It was largely the destructive power of the sea lamprey in the mid 20th Century that caused the sub-national governments to allow the adoption of a binational fishery management treaty. The commission is charged with several responsibilities including: coordinating fisheries research on the Great Lakes; carrying out a sea lamprey control; making recommendations to governments about fish stocks of common concern; and, at the request of the sub-national governments, facilitating the implementation of A Joint Strategic Plan for Management of Great Lakes Fisheries, discussed in greater detail below.

Federal Management Authority

The third pillar of Great Lakes fishery management is the federal governments of Canada and the United States. Even though the states, the province, and the two U.S. intertribal agencies retain primary management authority on the Great Lakes, the federal governments are also engaged in the process. Several federal agencies in the United States and Canada work with the sub-national agencies to support the management of the fishery.

The federal agencies carry out sea lamprey control by contract with the commission. Under state approval, the federal agencies carry out rehabilitation initiatives, most notably, lake trout stocking. The federal agencies contribute to the generation of information by carrying out scientific research. They also negotiate bi-national agreements, support the common good through budget and other initiatives, and have the trust responsibility toward tribes.

THE EMERGENCE OF COOPERATION

Together, the bi-national, national, and sub-national management agencies approach the Great Lakes from the same general perspective and with the same goals in mind. These perspectives and goals include:

- Working to sustain the Great Lakes fish stocks
- Protecting diversity
- Understanding and maintaining the balance between predators and prey
- Adhering to science-based management, and
- Balancing the interests of stakeholders, including sport anglers, commercial fishers, tribal fishers, the environmental community, and many others.

Despite a generally common approach to Great Lakes fishery management, for decades, the various agencies managed the Great Lakes fishery with little or no formal cooperation. With the states, the province, the tribes, and the federal governments often doing their own thing, it is not difficult to envision a situation where consultation was minimal, common objectives non-existent, and agencies working at cross purposes, even, at times, on the same lake.

By the late 1970s, the agencies realized that some mechanism was needed to facilitate cooperation among the jurisdictions. In 1978, the eight states and the province of Ontario joined with the Great Lakes Fishery Commission to develop A Joint Strategic Plan for Management of Great Lakes Fisheries. The Joint Strategic Plan was adopted in 1981 and has been updated regularly, most recently in 1997.

Each of the eight Great Lakes states, the Province of Ontario, two intertribal agencies in the U.S., and several federal agencies have all signed the Joint Strategic Plan. The Great Lakes Fishery Commission—at the request of the signatories to the Joint Strategic Plan—facilitates its implementation.

In recent decades, particularly under the Joint Strategic Plan's direction, fishery agencies have been successful in resolving—or partially resolving—many management problems. Even so, many issues remain unresolved and new issues continually emerge. To assist fishery and environmental agencies in dealing with these problems, agencies, through the Joint Strategic Plan, have identified broad procedures that foster cooperation. The procedures suggested in the Joint Strategic Plan are (textbox 1):

- Consensus
- Accountability
- Information Sharing
- and Ecosystem Management.

**Procedures for Great Lakes
Fishery Management**
(as outlined in A Joint Strategic Plan for
Management of Great Lakes Fisheries)

- Consensus
- Accountability
- Information Sharing
- Ecosystem Management.

Textbox 1

Consensus

The first broad procedure outlined in the Joint Strategic Plan is consensus. Agencies agree to reach consensus on management practices before they implement major initiatives. To help achieve consensus, agencies have developed common fish community objectives accompanied by operational plans, plans against which management decisions can be weighed. These objectives outline the goals for the fishery and how to achieve those goals. Agencies also agree that any change in fishery management practice that affects other jurisdictions must be agreed to by the other jurisdictions. In the rare instance where consensus cannot be achieved, the Joint Strategic Plan contains provisions for conflict resolution through the Great Lakes Fishery Commission or third parties.

Accountability

The second procedure is accountability. Fishery managers are accountable for implementing the decisions made under the Joint Strategic Plan. They implement the decisions through their own agencies. To promote accountability, the Joint Strategic Plan calls for the production of a decision record—primarily through the publication of meeting minutes. The Joint Strategic Plan also highlights the need for agencies to submit periodic reports about initiatives on each lake and the need for regular reports on progress toward reaching agency objectives.

Information Sharing

The third broad procedure is information sharing. Information useful to management is something all agencies need. Information sharing has been difficult at times because the jurisdictions have a history of generating a variety of data in a variety of formats. To maximize information sharing, the Joint Strategic Plan calls for the development and implementation of standards for recording and maintaining fishery management and assessment data. Access to information is critical to the management agencies and to the public. The Joint Strategic Plan calls for agencies and the Great Lakes Fishery Commission to take the steps necessary to publish information and make it available through convenient means, such as the internet. Finally, under the Joint Strategic Plan, agencies pledge to share their data with other agencies.

Ecosystem Management

The final procedure outlined is ecosystem management. A guiding principle on the Great Lakes is that managers must look at the Great Lakes as a whole. This means that fishery managers need to look beyond fishery management activities and respond to all issues that affect the Great Lakes. In particular, the Plan calls for a heightened interest in environmental issues—such as Lakewide Management Plans or the Great Lakes Water Quality Agreement—in developing, achieving, and assessing the progress on fish community objectives. The Joint Strategic Plan also recognizes the incredible problem the entire ecosystem faces over exotic species and calls upon the agencies to promote procedures to protect the resource.

LAKE COMMITTEES: GIVING ACTION TO THE JOINT STRATEGIC PLAN

With these four procedures for cooperative fishery management in mind, how, exactly, does the Joint Strategic Plan come to life? Long before the Joint Strategic Plan, each lake had its own “Lake Committee,” a loose set of Great Lakes Fishery Commission committees designed informally to help the commission and agencies focus on particular issues on each lake. When the agencies produced the Joint Strategic Plan in 1981, they decided to expand the use of the lake committees and use them as their means to carry out the Joint Strategic Plan.

Under the Joint Strategic Plan, high-ranking officials from agencies on each lake meet as a committee to address the issues of importance to that lake. For example, managers from jurisdictions on Lake Huron—which include Ontario, Michigan, and the Chippewa-Ottawa Resource Authority—meet as the Lake Huron Committee. A Council of Lake Committees—comprising all members of the lake committees—looks at Great Lakes fishery issues from a basinwide perspective.

The Joint Strategic Plan is designed to be a bottom-up process, where management decisions are driven by science generated by field researchers. To foster that design, the each lake committee has a technical subcommittee to conduct and digest research and to report those findings to lake committee members. This structure allows the field researchers and assessment biologists to come to a common understanding of the science, free from policy issues considered by the lake committees. Lake committee members then use that bottom-up-produced science as the basis for their management decisions.

The Joint Strategic Plan also provides for a coordinated approach to law enforcement. While each national and sub-national jurisdiction maintains its own law enforcement capabilities and responsibilities, there is considerable need on the Great Lakes for law enforcement agencies to work together. Indeed, because the Great Lakes is an ecosystem, it would make little sense for agencies to stop their pursuit of lawbreakers at a political line. To facilitate coordinated law enforcement, a Law Enforcement Committee develops and works to implement common law enforcement initiatives. This committee reports to the Council of Lake Committees.

Finally, to facilitate interagency cooperation, the Great Lakes Fishery Commission also supports the Great Lakes Fish Health Committee and the Habitat Conservation Committee. The Fish Health Committee studies issues relating to fish disease spread, prevention, and mitigation. The Habitat Conservation Committee—whose members are appointed by the commission—comprises government and non-government habitat experts to study and recommend measures for ensuring fish habitat protection.

Lake committee meetings are held annually, in public. They serve as a forum to develop common objectives for the lake, to share scientific information, and to allow agencies a place to make decisions on such things as stocking, harvest, law enforcement, and environmental management. It is important to note that all decisions made through the lake committee process must still be implemented by the individual agencies. That is, managers agree to take lake committee actions back to their own jurisdictions for implementation. Thus, the consensus-based lake committee process is non-binding and only as successful as the willingness of the individual agencies to adhere to the collective decisions. Even so, this process is highly effective as it serves to maximize cooperative management and minimize conflict. Figure 2 illustrates the lake committee structure.

Lake committees are clearly the strength of the Joint Strategic Plan.



Figure 2: Lake Committee Organization

MEASURING SUCCESS OF THE JOINT STRATEGIC PLAN AND RECOGNIZING ITS LIMITATIONS

How is the success of this cooperative, intergovernmental fisheries regime measured? Among the measures of success outlined in the Joint Strategic Plan are:

- Maximized fishing opportunities for all segments of the fishery,
- Self-sustaining fish communities that can survive on their own with minimal or no stocking,
- Stable fish communities free from wild, unpredictable swings or large-scale disruptions,
- Protected water quality and protected fish habitat, and
- A minimization of distracting (and often artificial) conflict among the various stakeholders in the region.

By in large, the Joint Strategic Plan has allowed the management agencies to achieve these measures of success. Agencies develop shared fish community objectives, fisheries management is based on the sound science generated by the technical committees, agencies initiate and implement countless joint initiatives, and cooperation is business-as-usual. In a highly fragmented political system, this degree of cooperation distinguishes the Great Lakes fishery regime from all others.

Despite this level of cooperation, it is important to stress what the Joint Strategic Plan does not do (textbox 2). The Joint Strategic Plan is a non-binding agreement, and, thus, decisions made during lake committee meetings reflect the consensus of the fishery community. Even with this consensus, the Joint Strategic Plan does not legally bind an agency. Thus, the Joint Strategic Plan does not establish an overarching political authority in the Great Lakes region.

The Joint Strategic Plan does not . . .

- Bind an agency
- Reduce or violate agency jurisdiction
- Commit the federal governments

Textbox 2

Moreover, despite what is agreed to during the lake committee meetings, fishery managers must still implement lake committee decisions through their own agencies. Thus, the Joint Strategic Plan does not reduce or violate the authority of the individual jurisdictions.

Finally, the Joint Strategic Plan does not allow the sub-national governments to drive the management activities of the federal governments

CONCLUSION

The Joint Strategic Plan is one of the best examples of cooperative fishery management anywhere on earth. A prime example of how the Joint Strategic Plan can work to facilitate cooperation is the restoration of the Lake Superior ecosystem. Lake trout is an historically important and ecologically critical native species in the Great Lakes. Prior to the sea lamprey invasion, lake trout (along with burbot) was at the top of the food web. After the invasion of the sea lamprey (the lake trout's preferred prey) lake trout abundance fell to near extinction in many areas of the Great Lakes, including Lake Superior. For several decades, agencies have been working together to restore this keystone species. Lake trout restoration is based on long-term fish community objectives and plans developed jointly through the Joint Strategic Plan. This rehabilitation effort tests the willingness of state and provincial agencies on Lake Superior to set and enforce strict harvest quotas, it calls upon the agencies to maintain adequate stocking levels to nurture reproduction, and it challenges the agencies to work together to collect the data to back up their decisions. Today, lake trout are naturally reproducing again in Lake Superior at such levels that stocking is no longer necessary in most of the lake. This success would not have been possible without a strong commitment by all of the management agencies on the lake to work together under the Joint Strategic Plan.

In the politically complex Great Lakes fishery management regime, the Joint Strategic Plan and the Lake Committee processes are critical to sound management. In the absence of an overarching authority, the Joint Strategic Plan—as implemented by the Great Lakes Fishery Commission—creates a cooperative atmosphere and delineates common objectives toward which the agencies can gravitate. The success of Great Lakes fishery management depends on the agencies working together for the good of the resource, not for the particular needs of the particular jurisdictions. To that end, the Joint Strategic Plan is a success in that it directs the naturally parochial tendencies of the agencies toward the needs of the resource as a whole.

The Joint Strategic Plan is available online at www.gllfc.org/fishmgmt/sglfmp97.htm