The Great Lakes Legacy Program:
A Cooperative, Cost-Sharing Model for Remediating Contaminated Sediments

Scott Cieniawski
Section Chief, U. S. EPA
Great Lakes National Program Office
Chicago, Illinois

ASTSWMO WORKSHOP
August 20, 2018
Jacksonville, Florida
The opinions expressed here are the views of the speakers and do not necessarily reflect the views and opinions of the U.S. EPA.
Great Lakes Water Quality Agreement

• Compact between the United States and Canada
  – Originally signed in 1978, amended in 2013
  – Addresses various Great Lakes issues
  – Identified 43 Areas of Concern (AOCs) around the Great Lakes needing remediation and restoration
    • 31 in the US or binational
  – Bi-national agreement to improve the health of the Great Lakes
EPA’s Great Lakes National Program Office (GLNPO)

• Created in 1978 to Coordinate EPA’s Responsibilities under the GLWQA

• Non-Regulatory, Non-Enforcement Program Office

• Mission: “Restore and maintain the physical, biological, and chemical integrity of the Great Lakes Ecosystem.”

- Studies identified primary stressors
- Significant reductions in point discharges
- Some progress on enforcement led cleanups
- Reductions in fish contaminant levels
- Some progress in protecting sensitive habitats
- Minor progress in restoring degraded habitat

However ...
- Only 1 AOC delisted (3%)
- Progress had stagnated
- Contaminated sediments were primary issue preventing AOC delisting
Great Lakes Restoration Initiatives (GLRI)

GLRI - $300M per year

Focus Area 1
Areas of Concern
$100M per year

Great Lakes Legacy Act
$50M per year

Focus Area 2
Invasive Species

Focus Area 3
Non-Point

Focus Area 4
Habitat

Focus Area 5
Adaptive Management

Great Lakes National Program Office
Differences Between GLRI and GLLA

• GLRI
  – No Cost Share Requirements
  – Flexibility on Funding Mechanism
    • Uses grants, interagency agreements, contracts, cooperative agreements, etc.
  – Focus on Habitat Restoration in the AOC

• GLLA
  – Minimum 35% Non-Federal Cost Share
  – Self Implemented through EPA Contacts
  – Addresses only Contaminated Sediments
    • With allowance for habitat restoration in conjunction with sediment remediation
Great Lakes Legacy Act (GLLA)

33 U.S.C. § 1268(c)(12)

GLLA is the first major funding action by the United States to address the AOCs under GLWQA

- Authorized in FY2003
- Funded in FY2004
  - Originally stand alone program, now funded under GLRI
- Reauthorized in FY2008
- Up to $50M per year to cost-share the remediation of contaminated sediments in Great Lakes AOCs
- GLLA pre-dates GLRI, but is now authorized under GLRI authority

**Purpose:** To accelerate the pace of sediment remediation in Great Lakes AOCs **using partnerships**
GLLA: Authorized Project Types

Must be in U.S. Areas of Concern (AOCs) and:

▪ Implement a plan to remediate contaminated sediment (highest priority),

▪ Monitor or evaluate contaminated sediment,

▪ Prevent further or renewed sediment contamination,

▪ Habitat restoration in conjunction with sediment remediation (added in the FY2008 reauthorization)

• All project types require a minimum 35% non-federal cost share
GLLA Implementation Rule

- Describes how projects are selected
- Lays out 4 categories of cost-sharing
- Range from 35-50% minimum match
- Describes how GLLA interacts with enforcement/regulatory program
4 Categories of Projects under GLLA Implementation Rule

• Category 1: Formal enforcement/regulatory evaluation completed
  • Minimum non-Federal cost share of 35%

• Category 2: No Enforcement, regulatory of CERCLA response actions are pending
  • non-Federal sponsor (NFS) is a non-liable public entity
  • NFS Cost share typically 35%
4 Categories of Projects under GLLA Implementation Rule

- **Category 3:** A decision document under Superfund, or a settlement agreement under another applicable state or Federal authority, has been signed.
  - No funding for selected remedy
  - NFS Cost share at least 40%
  - Betterments above and beyond the selected remedy

- **Category 4:** Enforcement, regulatory or CERCLA response actions pending but no settlement has been reached
  - NRDA Letter
  - NFS Cost share of at least 50%
GLLA Cost Share Basics

• Contribution methods
  – Cash
  – In-kind contributions
    • land, disposal, services
  – Cash and/or in-kind contributions performed under, an administrative order on consent or judicial consent decree
    • Rare

• Cost-share credit allowable only after a Project Agreement is signed
Project Agreements

- Legally binding public document
  - enforceable
- Defines cost-shares and roles/responsibilities
  - EPA does work under agreement, does not transfer money to NFS
- No covenants or releases from liability
- No stipulated penalties
Great Lakes Legacy Act Projects

Completed or ongoing projects

Legend:
- U.S. AOCs
- Binational AOCs
- Areas in Recovery
- Delisted AOCs
GLLA Remediation to date:

- Ashtabula
- Black Lagoon
- Hog Island
- Ruddiman Creek
- Tannery Bay
- St. Marys MGP
- Kinnickinnic River
- Grand Calumet - Roxana
- Sheboygan
- River Raisin
- Ottawa River
- Grand Calumet - Reach 3,4,5
- DSO
- Lincoln Park - Phase 1

4,120,000 cubic yards remediated
Who are the Non-Federal Sponsors?

- States
- Industries
- Municipalities
- Combinations of the above
What is the incentive for industry to participate in GLLA?

- GLLA Funding for “unassigned” contamination
- Reduced potential for future liability
- Cooperative, Collaborative Approach
- Speed of actions
- Project can proceed in phases
- Good public relations
GLLA Non-Federal Cost Share

• 25 Clean-Ups Complete or Agreements Signed
  – Approximately 2 cleanups/year

• Total cost: $738 Million
  – $418 Million GLLA
  – Leveraged $320 Million non-federal match (cash and in-kind)

• 13 years of successful implementation under GLLA
## Source of Non-Federal Cost Share for GLLA Remediation Projects

<table>
<thead>
<tr>
<th>States and local govt.</th>
<th>Industries</th>
<th>Natural Resources Damage Settlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>$110 M</td>
<td>$144 M</td>
<td>$66 M</td>
</tr>
</tbody>
</table>
Industries (37) Involved in GLLA Projects

- DuPont Co.
- GenCorp Inc.
- Honeywell International Inc.
- Illinois Tool Works, Inc.
- United Technologies
- Allied Waste Industries, Inc.
- Phelps Dodge (Now Freeport-McMoRan)
- Cabot Corp
- Detrex Corp
- XIK Corp
- Consumers Energy
- Varta Microbattery, Inc.
- The Mosaic Co.
- BP-Husky Refining
- BASF Corp.
- Arkema Corp
- Wisconsin Public Service
- Pollution Risk Services

- Cleveland Illuminating Co.
- Mallinckrodt Inc
- Millennium Inorganic Chemicals
- Ohio Power
- Olin Corp
- Occidental Chemical
- RMI Titanium Co
- Sherwin Williams
- Union Carbide
- CBS Operations (Viacom Intl)
- Elkem Metals
- Perstorp Polyols, Inc.
- Chevron USA
- Sunoco, Inc
- Pilkington North America
- U.S. Steel
- Ford
- Tyco Fire Products
- Fraser Shipyards
Why does GLLA Work?

• Alignment of Priorities
• True Partnerships
• Non-Regulatory Approach
• Cost-Sharing***
  – Orphan Share
  – Disputed Cleanup Targets
  – Differing perspectives regarding benefits of components of remedial alternatives
GLLA Website

https://www.epa.gov/great-lakes-legacy-act