

Proposed Washington State Lakes Program

And a summary of the

1997 JOINT SELECT COMMITTEE ON LAKE HEALTH AND IMPLEMENTATION OF THE PROPOSALS OF THE COMMITTEE

During 1996 and 1997 a group of concerned citizens, members of the Washington Legislature, and the Washington Lakes Protection Association worked to develop priorities for the protection and restoration of lakes in the State of Washington. Since these initial efforts, there has been limited implementation of portions of these proposals, but the development of a coordinated statewide lake program remains elusive. This paper briefly summarizes the 1997 proposals, the minimal implementation of these proposals in the past ten years, and issues that remain unaddressed. This review of lake management issues in Washington is intended to move forward the development of a statewide lake management program that will protect and restore the lakes of Washington.

Background

Informal hearings by the Joint Select Committee on Lake Health (JSCLH) on Washington lakes were held during the 1996 interim. The stated impetus for the review of statewide lake programs, "... *was motivated by the growing conflicts between shoreline property owners and local and state agencies over the use and treatment of lakes.*" This purported conflict was a local issue driven by the desires of a property owners association to continue long-term use of copper sulfate for algae control. While addressing user conflicts is important and necessary, it is typically a local, not a state, problem. The current effort should focus on a comprehensive statewide lake program.

Hearings began with a scientific overview and presentations on state, local and citizen roles in lake management. Legislative participants of the Committee included Senator Marilyn Rasmussen (Ag & Rural Economic Development) and Senator Dan Swecker (Natural Resources Oceans & Recreation), then Representative Debbie Regala (who was elected to Senate 2001) and Representatives Patty Butler, Gary Chandler and Gigi Talcott (no longer in the Legislature). Committee members prepared a list of questions to be addressed by the interagency working group. The committee requested information and recommendations on pesticide permitting, lake planning, funding, pollution prevention, public education, lake ownership, and use of aquatic herbicides. The 1997 Report presented several background issues and key findings, one of the more interesting was the statement, "*State agencies have prohibited treatment on the basis of **speculative fears** (bold in original document) that some injury may occur.*"

After several months of meetings between scientists, lake users, property owners and elected officials, a report on the Status of Lake Health was delivered to the Joint Select Committee on Lake Health. The 1997 report stated,

Lakes are valuable resources in Washington State. Lakes provide habitat for fish and wildlife, including rearing, spawning, and migratory pathways for many species of salmon. They provide recreational opportunities for swimming, fishing, boating. Some lakes provide flood protection or act as a drinking water source, and almost all lakes are valued by the local community as places of beauty and solitude.

In 1997, much of the discussion on lake management centered on the control of eutrophication and the increase in nutrients, organic matter, and sediments deposited in lakes due to development in the lakes' watershed. Lake problems are frequently the result of non-point pollution control problems in the watershed. While these issues remain important to Washington lakes, our state also faces other issues that require a much broader view than an individual lake or watershed. Issues of climate change, biodiversity, invasive species, endocrine disrupting compounds and toxic cyanobacteria require at least a statewide or broader geographic approach.

Water quality degradation of lakes and streams from stormwater is another problem that was discussed by the Committee. The issue of stormwater impacts still needs to be addressed both locally and statewide. Coordination of the National Pollutant Discharge Elimination System (NPDES) stormwater permits and their potentially to either benefit lake water quality or perhaps compete for state and local resources remains unresolved.

Recommendations

General Approach to Managing Lakes

The JSCLH recommended two lake management organizational alternatives for consideration. The first was an incremental approach to build on existing programs (many of which are no longer active). The second was a 'more radical departure' from existing programs that would create a new management framework for lakes. Neither alternative was officially adopted, so by default, Washington has partially followed the first alternative for the last decade.

The first alternative, called 'Alternative A' focused on two areas: local lake planning and state agency coordination. This approach was based on the assumption that most lake problems need targeted, locally driven solutions. The intent of this approach was to require local residents to develop lake management plans in response to specific problems and to develop local funding mechanisms to implement lake restoration projects. The report called for lake management plans to be initiated by local communities when a lake is listed as water quality limited on the 303(d) list, or when a short-term modification of water quality standards was requested for control of nuisance algae or plants. These actions were to be coordinated with state agencies responsible for providing technical assistance in the assessment process, coordinating the state permitting process, and incorporating local lake recommendations into activities within the watershed. In the past ten years, few local entities have developed funding mechanisms to address local lake issues, and the ability of the state to provide guidance and expertise has decreased along with staff and funding.

Alternative B called for a more integrated and coordinated approach to lake issues in the State, or as it was titled, "New Strategy to Establish Model Lake Management Planning Structure." This alternative included a series of recommendations on how to improve evaluation of specific lake problems and selection of alternatives. It also included direction on enabling government and private action, and on the adjudication of lake

levels (RCW Ch 90.24), revising the Lake Management Planning structure, and a suggestion to put the Department of Natural Resources in charge of lakes. The Washington Department of Ecology (Ecology) was to issue a renewable permit for nuisance weed control for a period of up to five years (this has been completed). The 1992 Aquatic Plant Management Environmental Impact Statement (EIS) was updated to improve scientific information and decision making. This EIS was to be updated anew every five years. And what was necessary in 1994 and is still necessary, 'Change Requires Data and Science'.

1997 Report Recommendations that have not been implemented

1. A lake coordinating committee consisting of lake front homeowners, lake users, academic specialists, pesticide applicators, local governments, and relevant state agencies was to be convened. The purpose of this committee was to:

- ◇ coordinate and track lake management activities,
- ◇ insure consistency in application of agency policies,
- ◇ develop a list of strategies to address lake assessment,
- ◇ develop a list of strategies to address lake assessment, management, and restoration,
- ◇ identify areas of controversy where peer review of plans or reports is needed,
- ◇ develop public education program and materials.

2. Funds were to be provided to the Ecology to contract for peer review of issues, plans, or reports as identified by the lake coordinating committee.

3. Local Funding

3a. The Lake Management District Statute was to be revised to: eliminate repetitive steps for county councils and eliminate the ten-year limit on district existence (the ten year limit was removed).

3b. The statute for storm water utilities and sewerage systems was to be revised to explicitly authorize funding for lake management activities. This would allow a county council to develop a lake management plan and assess reasonable rates for lake and water quality improvement on its own motion.

4. State Funding

The state was to provide five million dollars (1997 estimate) of dedicated lake funding for development of lake management plans with funding contingent upon demonstrated coordination between local government and a demonstrated ability to follow through on implementation

5. Lake Ownership (WDNR) and Noxious Weed Control (agriculture) issues need to be coordinated.

Events during the Interim

In the ten years since the last effort to create a comprehensive statewide lake program there have been only limited successes in pushing the concepts in the 1997 report into adopted policy or action. The most noticeable statewide success was the update and revision of the Aquatic Herbicide Application Environmental Impact Assessment updated by the Washington Department of Health and several other state agencies under the direction of the Ecology. There has been a great deal of activity on permitting and control of nuisance and noxious weeds in recent years, including a renewable permit for noxious and nuisance weed control. However, this has been and will continue to be driven by lawsuits rather than program needs. In terms of local funding, steps have been taken to improve Lake Management District structure, however there has been no improvement or flexibility to stormwater or sewage system rate structures. Some progress has been made in the area of permitting with the development of a more streamlined permitting process (i.e., the Joint Aquatic Resource Permit Application or JARPA and the issuance of five-year general permits for aquatic pesticides. There continue to be efforts to streamline permitting.

However, probably the most significant change in the last 10 years is that Ecology's lakes programs (lake restoration and lakes monitoring) were reduced by a lack of funding, staffing and a change in emphasis away from this portion of their mission. In the ten years since the last effort to create a comprehensive statewide lake program, efforts to push concepts in the 1997 report into adopted policy or action have met limited success.

Current Status and Needs

Due to the lack of a statewide coordinated program, the *de facto* approach during the past several years has been to manage water quality problems on a lake by lake basis, funded by grants obtained by the most successful legislators for their perspective districts. Many of these projects have resulted in successful lake restorations, but several grants of questionable scientific, restoration, or protection value have been funded as well. This approach sometimes provides local benefit in the void created by the lack of a statewide program, but works against the creation of a broader statewide program. It is irresponsible to manage a valuable resource in this piecemeal fashion via lawsuits and legislation driven by user conflicts.

Recent projects have largely focused on nutrient control. Although nutrient control remains a primary concern in lakes across Washington, there are other issues that require a much broader view than can be effectively addressed on an individual lake or watershed basis. The major success are Ecology's Aquatic Weeds program and the new toxic algae program being carried out in coordination with local jurisdictions. Issues of climate change, biodiversity, invasive species, endocrine disrupting compounds and toxic cyanobacteria require at least a statewide, or even broader geographic approach.

The issue of conflicting needs or lost opportunities is also critical to lakes. Because there is no program specific to lakes, opportunities are lost to protect them and they are not considered when deciding on activities or legislation that impacts them. The State has taken on a huge watershed planning effort in the past 10 years, but those plans are nearly

silent on lake quality and protection issues. The proposed NPDES stormwater permits have a large state mandated monitoring component that has the possibility of significant impacts on the financial and logistical capabilities of local jurisdictions. But the focus of the mandated monitoring in the proposed permits is not in the receiving waters, which are specifically excluded from the required monitoring. This new, unfunded monitoring requirement is driving local work planning to reduce local funds and resources available for lake and stream monitoring. There is a current opportunity to realize some real efficiencies and coordination if the NPDES stormwater program is modified to address receiving water impacts. Lakes are directly impacted by stormwater and should be considered for inclusion in the required monitoring

Technology and financing are often not available for watershed pollution controls. Long-term watershed solutions, even if fully implemented, will in all probability lag behind the impacts of urbanization. This focus and lag time are institutionalized in the TMDL process with money focused on restoration instead of protection.

In summary, Washington requires a comprehensive and effective statewide lake program to identify and address lake issues, set legislative and research priorities, and support local lake protection efforts. Long term watershed solutions alone are not enough if they are carried out in only the local context. Many other states with far fewer aquatic resources than Washington have far more extensive lake protection programs. Washington needs a coordinated program that will provide the scientific and legislative tools to protect and enhance the quality of Washington's lakes. This program will only enjoy the broad citizen and legislative support necessary if the protection and recovery of Washington's lakes are placed into the broader context of protecting the shared resources of our State, and that effort is coordinated across ecoregions.