### Evaluation Findings for the Ohio Coastal Management Program From May 2000 to October 2003

February 2005

Office of Ocean and Coastal Resource Management National Ocean Service National Oceanic and Atmospheric Administration United States Department of Commerce



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#### I. INTRODUCTION

Section 312 of the Coastal Zone Management Act (CZMA) of 1972, as amended, requires NOAA's Office of Ocean and Coastal Resource Management (OCRM) to conduct a continuing review of the performance of States and Territories with Federally approved Coastal Management Programs. This document sets forth the evaluation findings of the Director of OCRM with respect to the Ohio Coastal Management Program (OCMP) for the period from May 2000 through October 2003. This document includes an Introduction, Program Review Procedures, Accomplishments, Review Findings and Recommendations, and a Conclusion.

The recommendations made by this evaluation appear in **bold** type and follow the section of the findings in which the facts relative to the recommendation are discussed. The recommendations may be of two types:

- (1) **Necessary Actions** address programmatic requirements of the CZMA regulations and of the OCMP approved by NOAA, and must be carried out by the date(s) specified. There are three (3) Necessary Actions within this document.
- (2) **Program Suggestions** denote actions which OCRM believes would improve the management and operations of the Program, but which are not mandatory at this time. There are seven (7) Program Suggestions within this document. The State is expected to have addressed the Program Suggestions by the time of the next section 312 evaluation.

The findings contained within this document will be considered by NOAA in making future financial assistance award decisions relative to the Ohio Coastal Management Program.

#### II. PROGRAM REVIEW PROCEDURES

The Office of Ocean and Coastal Resource Management (OCRM) evaluation staff began review of the OCMP in August 2003. This included an analysis of the approved OCMP, previous and current award documents and performance reports, previous evaluation findings, correspondence relating to the OCMP, and other relevant information.

The OCRM National Policy and Evaluation Division (NPED) and the Coastal Programs Division (CPD) staff coordinated to determine the issues of focus for the evaluation. These included:

- \* The effectiveness of the Ohio Department of Natural Resources (ODNR) and the State resource agencies in monitoring and enforcing the core authorities which form the legal basis of the OCMP;
- \* Implementation of Federal consistency by ODNR and other networked agencies;
- \* The provision of technical assistance to local governments on coastal issues;
- \* The role of the Coastal Resources Advisory Council and the Submerged Lands Advisory Council in the OCMP;
- \* The status of State legislative actions which may affect the OCMP;
- \* Public and local participation, public education and outreach efforts;
- \* The manner in which the OCMP coordinates with other State, local and Federal agencies and programs;
- \* The status of Federal financial assistance awards and adherence to their programmatic terms and conditions; and,
- \* Changes to core statutory and regulatory provisions of the OCMP.

John H. McLeod, Senior Program and Policy Analyst, Bill Millhouser, Coastal Programs Division (CPD), Diana Olinger, CPD, Liz Mountz, Coastal Management Specialist, CPD, and Jim Langdon of the Wisconsin Coastal Management Program, conducted a site visit November 3 through 7, 2003. The Evaluation Team met with representatives of State and local governments, Federal agencies, interest group representatives, and private citizens during the site visit.

A public meeting was held on Wednesday, November 5, 2003 at 7:00 P.M. in the Erie County Commissioners Office, Large Chambers. (Appendix A lists persons contacted in connection with the evaluation; Appendix B lists persons who attended the public meeting; Appendix C documents written comments received regarding Ohio's performance during the review period; and Appendix D contains the response to the previous findings.)

The OCMP staff were instrumental in setting up meetings and arranging transportation. Their support is gratefully acknowledged.

### III. PROGRAM ACCOMPLISHMENTS

During the period of time covered by this evaluation, May 2000 through October 2003, the Ohio Coastal Management Program has made many significant accomplishments. The details of the most noteworthy of these accomplishments are listed below. It was clear from comments received during the site visit that the OCMP staff maintains a positive rapport and provides much appreciated response to the overall coastal community. As a result, the following accomplishments may be cited.

#### A) Fiscal Management

With the move of the OCMP to its coastal office, fiscal management of its grants was also transferred. At the time of the site visit internal controls had been institutionalized to include:

- A chart of all accounts;
- Procedures for processing draw requests;
- Procedures for processing extensions and reprogramming requests;
- Procedures for coordinating fiscal and programmatic reports for reimbursements;
- Procedures for processing revenue; and
- Procedures for processing Submerged Lands Lease payments and reimbursements.

Tracking of grant expenditures includes all grants by section, task and activity through a central accounting system which allows direct input from the recipient. Also payroll reference numbers are tied to activity codes to identify personnel expenditures by task.

In addition a cross training workshop for ODNR sub-recipients was conducted in August 2003. This was a comprehensive workshop dealing with all aspects of the programs funded through the OCMP starting with an overview of the CZMA and the NOAA grant sections; what they fund and how that funding is tracked. The internal accounting functions and processes were discussed in detail, as were the project manager functions and reporting requirements. After a review the grant tracking and reporting process was presented with a detail of the budget categories, financial reports, and draw requests.

#### **B)** Coastal Program Office

In a reorganization designed as a first step toward better serving local governments, property owners, and other constituents along the Lake Erie coast, the ODNR formed a new

Office of Coastal Management based in Sandusky. The restructuring consolidated staff from several separately managed ODNR programs and resulted in the transfer of four staff positions from Columbus to Sandusky. The new office gives coastal residents and local governments a single, unified office to deal with regarding State regulatory and coastal grants programs. Further, it allows the program to more effectively communicate its mission and requirements and places the States decisionmaking authority for dealing with local coastal issues on the coast. At the time of the site visit the Office had been in place for about one year and was still in the process of adding staff. Issues which remain are discussed in Section IV Findings and Recommendations, D, Staffing and Management of the Coastal Programs Office.

#### C) Local Projects

The Coastal Management Assistance Grants (CMAG) Program provides an important mechanism for the OCMP to support local initiatives that protect Lake Erie natural resources as well as support balanced development goals within the coastal area. The previous 312 evaluation findings encouraged the OCMP to maintain the CMAG program, noting that these grants provided a means to further coordination and strengthen relationships among local governments, Universities, nonprofit organizations, and other stakeholders. OCMP has continued to support the CMAG program by funding 26 local projects over the past 4 grant cycles. Total annual funds allocated for the CMAG program range between \$150,000 and \$340,000, with individual grants to local recipients ranging from \$15,000 and \$100,000.

The OCMP local liaison administers the CMAG and Great Lakes Coastal Restoration Grants programs, and plays an important role in OCMP's outreach to local governments. The local liaison works with local planners and officials to identify local resource management needs and project opportunities that are eligible for CMAG funding, and assists local organizations with identifying additional sources of funding for their projects. The local liaison and other OCMP staff hold workshops to assist local officials with identifying eligible projects and developing grant applications. The ODNR Division of Watercraft, which also provides small grant funding to support local initiatives, has also participated in this workshop. The OCMP staff also provides technical assistance to local communities through a variety of activities, including: assisting in development of model ordinances and comprehensive plans; promoting the importance of coastal resources for tourism and the local economy; and working with the other OCMP networked divisions to coordinate ODNR resource protection efforts with local governments.

The OCMP has prioritized comprehensive community planning projects for funding under the CMAG program, because there are very few other sources of funding available to support community planning activities. The local governments have often been able to use their completed community plans to leverage additional funding to implement the activities envisioned within these plans. The City of Lorain highlighted their Upper Black River Master Plan, which had been funded by the OCMP during the previous evaluation period. This project focused upon using a former landfill site to develop a light industrial park and recreation area.

The City of Lorain is beginning to break ground on this project and anticipates a high rate of return for the community from this initial investment. The evaluation team recommended that the City develop a method and plan to document the benefits accrued as a result of the initial planning project. Examples of CMAG projects funded during this grant cycle include:

- The City of Vermilion received support for the **Showse Park Feasibility Study**, which planned how to increase public access at the Showse Park, despite shoreline erosion problems in the area. Historic Vermilion Inc. conducted a **Waterfront Feasibility Study** to determine how to best utilize the riverfront and lakefront of downtown Vermilion while also preserving the historic Harbourtown area. The city was able to use this project to leverage \$400,000 in revitalization funding. The Vermilion Port Authority received funding for the **McGarvey's Landing Marina** project, which developed designs and plans for a handicapped accessible marina.
- Eastern and Western Lake County Coastal Comprehensive Plans (2 projects): The Lake County Planning Commission developed a comprehensive coastal plan for the communities and port authorities of eastern Lake County that will guide future local government decisions. The comprehensive plan includes the following reports: an inventory, the plan, an implementation guide, and associated maps. This comprehensive multi-jurisdictional plan benefits all the participating communities as well as the coastal resource. Based upon the success of the eastern county plan, the OCMP has recently funded the Lake County Planning Commission to develop a Western Lake County Comprehensive plan, which will guide local governmental decisions in the western portion of the county.
- Steelhead Run Nature Preserve: Lake Metroparks conducted ecological assessments for areas proposed for use as nature preserve/wetlands, public access sites, and riparian habitat along the Grand River in the Lakeview Bluffs redevelopment area. Natural resource management and habitat restoration plans were developed for these terrestrial and aquatic communities.
- Black River /Lorain Harbor Shoreline Master Plan: The City of Lorain developed a feasibility study to assess the public access and commercial development potential of the iron ore pellet facility site located at the mouth of the Black River. This facility recently became available when the ore pellet facility site was moved to Cleveland. Priorities will be determined for recreational, waterfront and commercial uses. This plan will be a valuable first step to ultimately help assist in revitalizing a deteriorating downtown area.
- **Miller Park Beach Access:** The City of Avon Lake designed and built a ramp from the existing fishing pier to the beach area. This project will provide a safe access to the beach area for the public as well as access for emergency personnel.

Starting in 2001, the OCMP has also administered the Great Lakes Coastal Restoration Grants (GLCRG) program. Ohio was allocated 4.489 million dollars to fund competitive grants to state and local governments for coastal and water quality restoration projects. Approximately one half of the GLCRG funding has been awarded to local recipients selected through a competitive grants program, while the other portion of the funding has supported ODNR projects, such as the Kukay property acquisition, which acquired 10 acres of land adjacent to Marblehead lighthouse, increasing public access opportunities on the site. Several other examples of projects funded under the Great Lakes Coastal Restoration Grant program include:

- Silver Creek Restoration Project: Geauga County Park District received GLCRG funds to develop and implement a stream restoration project in order to resolve an erosion problem at Silver Creek within the West Woods Park. A high intensity rain event in 1994 and subsequent removal of a dam on Silver Creek has negatively impacted this section of the creek, causing heavy sedimentation, increased bank erosion and impaired aquatic habitat. This project is designed to restore Silver Creek to pre-disturbed conditions, reduce downstream sediment loads and nonpoint source pollution problems, and create several backwater wetland habitat areas. The Park District also plans to highlight this project through educational programs and outreach activities.
- Lower Grand River Floodplain Acquisition: This project funded Lake Metropark's acquisition of 14.52 acres of Grand River floodplain wetland. The park district is preserving the site as a natural area and allowing passive recreation use as a river access point for boaters and fisherman.
- West Creek Land Acquisition and Preservation: The City of Parma acquired 23 acres of land adjacent to the existing West Creek Preserve. Approximately 16 acres have already been acquired and the rest will be purchased during the second phase of this project. The City will also develop a stream restoration plan and will restore habitat along 1200 linear feet of stream, providing habitat restoration and enhancement and erosion abatement.

#### D) Geographic Information System Development

During the review period, the OCMP has invested resources toward the development of a comprehensive Geographic Information System (GIS) to support water quality permitting activities, identify coastal Lake Erie access in support of the Statewide Comprehensive Outdoor Recreation Inventory, and assist planning, regulatory functions, and decision support. An OCM Internet Map Server is being developed that will allow ODNR managers and the public to access an on-line mapping system without the need for sophisticated GIS/Remote Sensing software. This system is being developed and is managed by ODNR's Division of Real Estate and Land Management (REALM).

#### GIS for Clean Water Act Section 401 Support

In 2001 OCMP contracted with Ohio Environmental Protection Agency (OEPA) to develop a GIS to identify, quantify and track primary, secondary and cumulative impacts of projects permitted and mitigation measures required through the Clean Water Act (CWA) Section 401 Water Quality Certification process. This led to the development of the Lake Erie Quality Habitat Evaluation Index (LQHEI). With data collection completed a rapid-scoring methodology to assess the quality of Lake Erie habitat was developed. Use of the LQHEI provides more scrutiny to higher quality Lake Erie habitat that is proposed in CWA Section 401 applications and supports higher ratios of mitigation when higher quality impacts are authorized. A LQHEI manual to build in accuracy and precision (quality control/quality assessment) for the appraisal of the Lake Erie habitat by multiple users is under development.

#### Lake Erie Access Program

Digitization of access sites (marinas, fishing access sites, boat launch sites, cultural resource sites) was completed in 2000 along with the ability to combine the digital spatial data with the attribute data files of access sites and facilities along Lake Erie and waterways within the coastal area boundary. The Statewide Comprehensive Outdoor Recreation Plan will be a new data source to update the Lake Erie Access Program.

#### Lake Erie GIS

In 2000 two mapping applications were undertaken:

- Lake Erie Access digital spatial data layers and facility attribute data were combined to demonstrate the utility of GIS for practical and useful queries. GIS maps were produced to illustrate the application to include locations of public and private marine facilities in the Catawba Island area, Catawba area boat launches, West Harbor marinas with pump out facilities, boat launch facilities of the Catawba area, and public lighted launch ramps with fees less than \$5.00 within twenty miles of Milan, Ohio.
- A statewide mapping project to evaluate Ohio EPA water quality impairment data on a watershed basis in order to prioritize non-point source pollution abatement efforts and support decisions for prioritizing geographic areas and allocating resources for coastal non-point source pollution control, water quality, and habitat remediation efforts.

This led to the Lake Erie GIS program which supports management assistance for an array of activities related to the resource stewardship goals and initiatives of the ODNR's *Strategic Action Plan for Coastal Management*. The associated Coastal

Resources Inventory is a complementary information management tool developed to provide access to information about the accessibility and usefulness of digital spatial data for the coastal area and Lake Erie watershed.

#### E) Invasive Species Eradication Project

The OCMP has supported a large scale, multi-year invasive species eradication project conducted by the Division of Natural Areas and Preserves (DNAP). In 2001, two seasonal employees were hired to form a crew that would assist in the removal or control of invasive species such as common buckthorn, purple loostrife, phragmites, reed canary grass, narrow-leaved cattail, and other problem species. The crew worked in fourteen preserves attempting to control or eliminate approximately 12 exotic species and several native woody species. Problem species were attacked with foliar sprays, hand pulling, hand wicking, manual cutting, cut stump applications of herbicide and basal applications. Training was provided to the crews for the use of herbicides. Only wetland-approved herbicides were used in wetlands and areas with high water tables. Direct work covered approximately 600 acres in the fourteen nature preserves which combine to cover approximately 1,500 acres.

Building on the previous year's efforts, 2002 tasks included eradication of invasive species by direct management efforts; development of a habitat management database to track all habitat management efforts and document management measures performed; mapping of invasive species populations; and the assessment of eco-management techniques. This project represents an applied use of the Natural Heritage Database which supports the planning of large scale treatment actions and the establishment of long term treatment and monitoring programs.

#### F) Chagrin River Project

The Chagrin River Watershed Partners, Inc. was formed in 1996 by the watershed communities of the Chagrin River Watershed and is supported by member dues and grants. It provides an innovative approach by the 31 member communities to seek original approaches to minimize flooding and erosion in this State Scenic River. In support of this effort the OCMP has funded the Chagrin River Watershed Partners Project throughout the review period. The project seeks to:

- Assess long term hydrologic regime trends of the Chagrin River Watershed using USGS gage data;
- Evaluate land use and regional climatic factors to assess cause (if trends are identified in the above);
- Initiate a site planning forum to determine alternative site development practices to reduce cumulative and secondary hydrologic impacts of land use changes; and

• Initiate a comprehensive wetland study to assess cumulative and secondary impacts on wetland resources in the Chagrin River watershed.

The study developed a report from the data collected which describes how much of the historic wetlands of the Chagrin River have been lost over time. The intent is to aid the Chagrin River Watershed Partners in understanding the relative wetland losses in each member community and to educate the members on what has been lost and what may be maintained. As a result of this and other efforts six (6) of the communities have adopted riparian setbacks and all communities have adopted riparian setbacks relative to storm management. The information can be used in the assessment and prioritization of preservation and restoration activities to minimize loss of wetland functions when development occurs.

#### **G)** Mentor Marsh Special Area Management Plan

OCMP funding was provided to support the ongoing protection of Mentor Marsh through the development of a Special Area Management Plan (SAMP), a comprehensive plan providing for natural resource protection and reasonable coastal-dependent economic growth. The process of developing a SAMP involved studying the issues affecting the environmental and economic well-being of the area and then detailing coordinated approaches to address the issues. Carried out by the Marsh Area Regional Coalition (MARC), an all-inclusive Mentor Marsh stake-holder group of local, state, and federal government agencies, non-profit conservation groups, private companies, museums, schools, interest groups, scientists, and individual citizens, issues were first classified into five categories:

- Shoreline Management and Near-shore Issues;
- Wetlands and Biodiversity;
- Recreation and Public Access;
- Land Use and Economic Development; and
- Water Quality.

Task forces were established for each category to identify strategies to accomplish goals that address the threats throughout the Mentor Marsh Watershed. Most of the strategies focused on:

- Increasing coordinated comprehensive planning throughout all of Lake County including the many jurisdictional areas encompassed by the SAMP study area;
- Implementing policy changes that will encourage or require environmentally sensitive development resulting in landscape preservation;

- Educating the public about tools that can be used to protect the Mentor Marsh area and the economic and social benefits derived from environmentally sensitive development in order to gain support for implementing coordinated comprehensive plans and policy changes; and
- Establishing measures to preserve sensitive lands through conservation easements, purchase or transfer of development rights, and land acquisitions.

The MARC maintains a web-site at: www.lakecountyohio.org/planning/marc/.

#### H) Coastal Training Program Initiative

The OCMP is coordinating with the Ohio Sea Grant College Program (Ohio Sea Grant) and the Old Woman Creek National Estuarine Research Reserve (OWCNERR) to develop a coastal training program for the Ohio area. The first element, concluded in July 2002, was a coastal training market analysis to guide the development of a comprehensive coastal resources management training program. Training providers in the Ohio Lake Erie basin were surveyed to generate information on the area's coastal training and education market. The results indicated what was being offered, how it was funded, what the target audiences are, and what gaps exist. The survey indicated that the partners, OCMP, Ohio Sea Grant, and OWCNERR, could help to strengthen coastal management training programs by providing facilities/operational support, funding support, instructors/trainers, marketing assistance, and professional/technical assistance.

This led to the coastal resources training needs assessment, completed in March 2003. Coastal-decision makers and training providers participated in seven (7) focus groups to generate information on coastal resources knowledge and training needs. Six (6) of the focus groups were comprised of a cross-section of professionals who make decisions affecting watershed area and the remaining group was comprised of training providers. The groups focused on core knowledge and training needs to develop key findings for knowledge development and for training program design. The full report may be obtained via the web site at <a href="https://www.glefc.org">www.glefc.org</a>.

#### I) Planning of the CZM01 Conference

One success in coordinating agencies and groups was Ohio winning the bid to host the international Coastal Zone Conference in July 2001. The conference was held in Cleveland, Ohio - the first and only time this conference has been held in the Great Lakes. The State also partnered on the CZ'01 effort with OCRM and NOS, NOAA Coastal Services Center in Charleston, South Carolina, several Federal agencies, other Great Lakes States, and the Old Woman Creek NERR. It was an especially bold undertaking for a program so recently approved. The conference was well-received - attracting many visitors from various countries to the Great Lakes, many for the first time.

The precedent set by the OCMP during its first three years following Federal approval to serve an important role as a clearing house for information and a central point of contact has been continued and enhanced through the newly formed Office of Coastal Management (OCM) located in Sandusky, Ohio. Through current and planned cooperative ventures with Federal, State and local governments, communities and interest groups, OCM is able to provide direction and leverage funding for specific projects that address coastal issues.

#### IV. REVIEW FINDINGS AND RECOMMENDATIONS

The Office of Ocean and Coastal Resource Management (OCRM) finds that the OCMP is adhering to its approved coastal management program; implementing and enforcing the OCMP in a satisfactory manner; and adhering to the programmatic terms of the NOAA financial assistance awards. The State continues to address national coastal management needs identified in CZMA Section 303 (2) (A) through (K). While there are a number of accomplishments credited to OCMP implementation, there remain a number of issues that must be addressed. Problems exist, in large part, due to the transition of the Program Office from Columbus to Sandusky, the replacement of more than half of the staff, and the loss of institutional knowledge. This has led to the existence of a number of unresolved issues at the time of the site visit of this evaluation. Within this context, the recommendations made below are intended to assist OCM in enhancing the overall performance of the OCMP.

#### A. Program Direction and Strategy

With the staffing changes and program re-location to its new offices on the Lake Erie coast, there have been changes in how the OCMP interacts with the public, as well as in how the various partner agencies and partners work together within the context of the networked OCMP. It appears that the lines of communication between the OCM and other coastal partners have not been adequately maintained throughout these changes, resulting in a lack of coordination within the networked program, and in under-developed relationships with many coastal constituents, including local governments. In addition, the reorganized OCMP has not yet developed focused program objectives, especially shorter-term goals that could be reached using existing program resources. While the OCM has conducted strategic planning sessions, a strategic plan needs to be completed. This should result in more focused program objectives. The strategic plan should give due consideration to short term achievable goals.

The OCMP must determine how to effectively coordinate the networked coastal program, using the vast capabilities that already exist within the program. The new office location on the coast should generate many additional opportunities for direct partnership with coastal groups. The reorganized OCMP needs to develop a stronger understanding of the knowledge and resources that already exist within the networked program and in other coastal organizations, and to create a plan that will effectively mobilize these forces to address Lake Erie coastal management priorities and to ensure implementation of the approved coastal management program. NOTE: Since the evaluation visit, the OCMP organized the 2004 ODNR Coastal Management Conference, which provided an opportunity for ODNR divisions to share their

current characterization of Lake Erie resources and discuss issues that need to be addressed. This meeting was widely attended by representatives from numerous ODNR divisions and is a definite step forward in strengthening the networked program. In addition, the chief of OCM spends 1-2 days per week in Columbus, which provides opportunity for increased coordination with the networked divisions within ODNR.

The OCMP must develop strategies to reach out to interested partners, seriously engage disaffected coastal groups in viable dialogue, develop strong partnerships with local governments along the coast, and provide scientific and managerial expertise to engender defensible land use decisions. The program needs to prioritize and expand outreach and educational mechanisms that engage the public, especially local government officials, regarding the multiplicity of Lake Erie coastal management issues in Ohio.

In order to accomplish the objectives mentioned above, the OCMP should develop a far ranging strategy to integrate all elements of coastal management into a cohesive, programmatic whole. This strategy should focus on the core authorities of the OCMP, and prioritize setting measurable goals that are achievable using existing (or likely, within the forseeable future) financial resources and regulatory authorities. While the end product of such an effort might be a "user friendly" program summary or document, the initial step should be the development of a short term, and then a long term strategy, to bring about program integration, cohesion, and priorities.

#### **NECESSARY ACTION**

1) A coherent long term and short term strategy that effectively uses the capability of the networked coastal program and other coastal partners, and addresses the core authorities of the approved OCMP, must be developed and submitted to OCRM within six months of the receipt of these findings.

#### B) Enforcement

Historically there has been somewhat limited enforcement of certain coastal regulations of the State, specifically Shore Structure Permits and Submerged Land Leases. According to OCM staff, the issue is compliance in some cases, and outright un-permitted action in others. There are indications of fill without permits which may take the form of dumping rock fill down a cliff, or pouring concrete down a cliff, and of hiring contractors to construct a sea break without a permit or valid engineering design in areas where no seawall or revetment exists. Response is to property owner complaints. There is no active monitoring for violations and no active pursuit of enforcement of violations. Significant enforcement issues exist, but the program has begun to take steps to address these areas of non-compliance.

There is an enforcement process which first starts with a notice (letter) informing of the need to comply. This may be followed by another notice but, at some point, an administrative

order to comply is issued. Failure to comply at this point results in the case being turned over to the AG for legal action. In 2001 the Court of Appeals of Ohio, Tenth district issued a Decision and Judgement Entry affirming the judgement of the Franklin County Court of Common Pleas that had upheld Orders of the Director issued to two private upland property owners on Lake Erie requiring that they either obtain submerged lands leases for their structures (wharfs) or remove their unauthorized structures from the submerged lands of Lake Erie. The Supreme Court of Ohio, without dissent, declined jurisdiction to hear the case and dismissed the appeal as not involving any substantial constitutional question.

Currently there are several cases in the hearing process at the request of the actors, who have declined to work with ODNR. However, there is a need to review all pending cases, select those precedent setting cases which can be expedited and are clearly in violation, and pursue compliance. This would at least address the known violations. Since the 312 evaluation, the OCM office in Sandusky now has direct access to the coastal GIS database of submerged land lease areas, which will enable staff to more easily determine which shoreline structures have been constructed without obtaining the necessary submerged land lease from the state. There are apparently a number of undetected violations. Absent an aggressive approach to compliance, an education effort which factually defines the issues is needed.

There is a need to develop an engineering guidance manual to support the permitting process and a design sheet which identifies what needs to done to accomplish engineering design (such as the conduct of a wave height analysis). Though information is available on a web site which provides guidance to the different sections of the appropriate act, and applications which may be downloaded, a more aggressive approach to getting information to potential users is needed. Outreach is also needed. It might be useful to work with a township that is concerned about illegal dumping and pursue a compliance effort in support of the communities problems.

#### **NECESSARY ACTION**

A comprehensive examination of the enforcement of the coastal management regulations must be undertaken. The OCMP must develop a viable program of regulation to be carried out in concert with outreach to coastal local governments and the general public. The OCMP must submit a plan for increasing enforcement of and compliance with coastal regulations to OCRM within one year of the receipt of these findings.

#### C) Program Changes

The OCMP must ensure that all changes to the approved coastal management program are submitted to NOAA in a timely manner. It is important that Ohio's coastal program document is kept up to date, since only approved coastal policies can be considered in federal consistancy decisions. Unapproved program changes are not eligible for federal funding under the CZMA. In addition, the approved coastal program document directs other coastal

partners and interested parties to Ohio's plans, policies, and procedures for managing the Lake Erie shoreline. The program document provides a guide for how the coastal program will interact with other governmental agencies and constituent groups. An out-of-date program document creates confusion at the state, local and federal levels.

The OCMP must develop a schedule for submitting all program changes to NOAA for review and incorporation into the approved coastal program. Recently, the OCMP has undergone significant internal reorganization, consolidating functions from several ODNR divisions into the Office of Coastal Management. The OCM has developed MOU's with REALM and the ODNR Division of Water in order to administer the submerged land lease and shore structure permitting program. NOAA realizes that there is a strong possibility that the coastal permitting process could be revised again through the legislative process; however, this most recent program reorganization needs to be submitted to NOAA as a program change, since it significantly impacts the operations of the OCMP. In the event that Ohio passes legislation creating further changes to the OCMP and the enforceable policies contained within the current program document, these changes also must be immediately submitted to NOAA as a program change.

The OCMP has expressed interest in revising the program document to create a more user friendly guide to Ohio's coastal program. The evaluation team would not recommend completely revamping the existing program document, as that would be an extremely labor intensive project which is unnecessary and not a priority at this time. However, we suggest that the OCMP might consider creating a introductory section which summarizes the OCMP's enforceable policies and operating procedures in a brief, user-friendly format.

#### **NECESSARY ACTION**

The OCMP must submit all program changes to NOAA in accordance with OCRM's 1996 Final Program Change Guidance, including changes created by program reorganization. Draft program changes must be submitted to OCRM for review within 6 months of receipt of these findings. In addition, in the event that Ohio passes legislation significantly changing the OCMP, Ohio must promptly submit these program changes to NOAA for review.

#### D) Staffing and Management of the Coastal Program Office

The reorganization of the OCMP to one office on the coast has been viewed as a positive step in placing the program directly within the area it is supposed to manage. However, it has also resulted in a loss of institutional history and knowledge needed to address emerging issues as well as to bolster ongoing programmatic processes which are themselves subject to change and evolution.

The OCM should move as quickly as possible to complete the staffing of the program to

ensure that it has the fundamental knowledge, skills, and abilities of a well-rounded coastal management office. To this end, priority should be placed on the recruitment of the resource management positions (the Regional Planner and Aquatic Biologist) and in filling the middle management positions which are vacant. A strong cadre of middle management personnel with the authority to act on issues independently could significantly relieve the administrative burden currently resting upon the OCM chief and greatly increase the overall capacity of the OCMP. Strong consideration should be given to the recruitment of individuals with extensive professional environmental management and policy experience. Development of additional resource management experience and expertise on staff would greatly assist the OCM in coordinating with other coastal organizations and providing technical assistance to coastal constituents. Absent the institutional knowledge within OCM, training programs such as those provided by the Coastal Services Center should be identified and taken. The skills and capabilities of the supporting staff of OCRM should also be used to counterbalance a lack of historical knowledge of the program and of how the coastal management program has unfolded over the years.

#### PROGRAM SUGGESTION

4) ODNR should move rapidly to complete the staffing of the OCM. Priority should be placed on filling all remaining positions, prioritizing mid-level management and natural resource management expertise, and providing appropriate training to staff members. In addition, internal and external operating procedures should be documented to provide institutional guidance over the long term.

#### E) Submerged Lands Leasing

One of the most divisive issues during the recent review period has been the definition and implementation of submerged lands leasing. The first issue relates to the determination of the State boundary to define what is in public ownership. The State has defined the Public Trust to be that area below the Lake Erie high water line as defined by the Corps. Any activity to the Lake Erie side of that line is within the Public Trust and, while not prevented per se (such as the construction of a pier or break-wall), is subject to permit and lease and the assessment of fee. Lake front property owners claim deeds which define their property to run to the low level and assert that the assignation of a fee is in addition to the taxes the pay on their property. In addition the term "lease" is at issue relative to other approaches such as licenses, permits, commercial leasing or some combination thereof. There is additional complexity to submerged lands leasing in that some leases are used in loans and other fiscal actions.

There are a number of parallel issues which also relate to submerged lands leasing. An issue for the Coastal Program, and local governments, is the loss of revenue from the leases absent some other revenue technique from licenses and/or permitting. There is not a lot of data on how much the lease burden is on the individual single family property owner though it is

noted that some of the leases can be \$10.00 per year. To the property owner there are issues surrounding the regulatory process, predicated on the assertion that the process is burdensome and needs to be revisited. Specifics revolve around an asserted inconsistency in the review by the state agencies of erosion control and that elements can be rejected by one agency (OEPA or REALM) over the other and that requirements of one agency can be in conflict with the requirements of another.

In response to this, the Ohio Legislature is considering proposed legislation, HB 218, wherein private homeowners would no longer need a lease for lake-ward construction from the high water mark, but a permit to construct would be required. Beyond the compromise of proposing a permit process rather than redefining the coastal boundary, the legislation contains a number of issues that may directly relate to the approved OCMP. Many of the issues are exceedingly complex and any resolution should be carefully thought out because the change may have far reaching ramifications. This means that careful consideration should be made to all of the elements of the Bill beyond the more divisive issue of the boundary definition; a factual analysis of issues needs to be carried out. To this end, OCRM will be available to consult on any OCMP approvability issues.

#### PROGRAM SUGGESTION

5) ODNR/OCM should prepare a definitive administration policy statement on submerged land leasing issues and the Lake Erie Public Trust boundary. A public outreach campaign to educate coastal residents about state policies on submerged lands should also be undertaken. ODNR may want to consider establishing a "blue ribbon" panel of experts on submerged lands policy to provide guidance on this issue.

#### F) Coordination With Federal, State and Local Partners

One of most important functions of a state coastal management program is to coordinate with the numerous state, local, and federal entities having an interest relating to management of the coastal zone. Ohio is a networked program and originally, a total of fourteen ODNR divisions were responsible for various aspects of the OCMP, with REALM administering the core OCMP program. In order to coordinate between the various divisions, the OCMP established an Integrated Management Team, which was made up of key individuals representing ODNR Divisions who worked cooperatively with the Coastal Management Section to implement the OCMP. The Integrated Management team met bi-monthly and ensured that the actions of the networked divisions were consistent with OCMP and coastal management policies. This Integrated Management Team process was noted as a program accomplishment under the Administration and Staffing section of the previous 312 evaluation findings. The Integrated Management Team has not met since 2001.

In 2002, ODNR created the Office of Coastal Management, which is located in Sandusky,

on the Lake Erie coast. Through MOUs with various ODNR divisions, the Office of Coastal Management has taken over the permitting and leasing responsibilities along the coast. While Shore Structure Permit reviews are conducted by OCM, the permits are still issues by the Chief of the Division of Water. Reviews of Submerged Land Lease applications are conducted by OCM but they are still signed and executed by the Governor of Ohio. With the program reorganization, many OCM procedures for coordinating internally and externally have changed or are no longer being practiced. In many cases, these changes have not been clearly documented and are not transparent to outside entities. For example, some awkwardness exists regarding coordination of federal consistency review and general comments on proposed coastal projects. Federal consistency reviews are conducted through ongoing cooperation between OCM and REALM. The Integrated Management Team (IMT) process is no longer being implemented. During the 3valuation period the IMT had conducted meetings but they ceased prior to the creation of the OCM. OCM recognized the importance of the IMT and subsequent to the evaluation site visit, OCM reconstituted the IMT elevating it to be comprised of the chiefs of relevant divisions. OCM is currrently planning the third IMT meeting since its reactivation.

However, OCM now has an excellent opportunity to coordinate directly with the various networked offices located along the coast, as well as important partners such as Old Woman Creek NERRS and the Ohio Sea Grant College Program. The OCM should consider using the Integrated Management Team model to develop a process that will increase communication and coordination with these coastal offices.

The OCM should also work towards increasing communication and coordination with local governments within the coastal zone. While the CMAG coordinator plays an important role in developing strong local ties, the entire OCM staff should work towards prioritizing outreach efforts to local governments and organizations. The Long Term Direction and Strategy Document, which is required under the first Necessary Action of this 312 findings, could also be used to develop and formalize this communication and coordination effort with local governments.

Essentially the OCM needs to clarify internal ODNR, as well as, external communication protocols. These should address internal ODNR coordination with all of the relevant OCM divisions on such issues as permit and lease reviews and development of the Coastal GIS. The OCM also needs to ensure that coordination procedures with the Corps' and other Federal agencies on such matters as Federal Consistency are clear.

#### **PROGRAM SUGGESTION**

6) The OCM should improve communication and coordination with agencies and coastal partners at the local, State, and Federal levels, including internal communication among ODNR programs. The OCM should consider recreating the Integrated Management Team that was in place prior to 2001.

#### G) Consistency

With the move to the cost, there have been some subtle changes to the consistency process which need to be documented and provided to appropriate agencies and the public. Lack of this appears to have created some problems in the application and review processes. For instance, the U.S. Army Corps of Engineers is not consistent with whom they forward permit applications for review, sending them to ODNR's REALM in Columbus one day, to the OCM in Sandusky on other days, and, on some days, to both. While this does not mean that the appropriate process is not being followed, it does mean that there is some confusion regarding that process. There is a need for a statement of the consistency process which includes a diagram of the process.

#### PROGRAM SUGGESTION

7) OCM should develop a clear and concise description of the federal consistency process in the State and distribute it to Federal, State and local agencies and the public.

#### **H)** Geographic Information Systems

The Lake Erie Geographic Information System (LEGIS) is a GIS system which was established to support the OCMP as well as the broader activities related to ODNR's resource stewardship program. ODNR's Division of Real Estate and Land Management (REALM) is currently responsible for managing this system. The OCM sends to REALM data to be entered into the system, such as permit and lease applications, and can request maps and other outputs from REALM. The development of this GIS system was cited earlier in this document as a program accomplishment.

However, it appeared that the current LEGIS system has not been fully used and integrated within the overall coastal management program. Increased coordination with REALM regarding current system capabilities and data use options could greatly improve the effective use of GIS in coastal management. The OCMP should optimize GIS capacity and effective use through the program's long range planning and coordination efforts, assessing who will likely be the primary users of this GIS information and determining the mechanisms by which the program will provide and exchange data with other coastal users.

In addition, the OCM would greatly benefit from direct access to the LEGIS system, as well as increasing overall staff familiarity and skill level with GIS and related technologies. The OCM should consider this technological need when prioritizing future training and/or hiring decisions, so that the OCMP will be positioned to provide expert GIS service directly to coastal users.

OCM has also expressed interest in developing a 'coastal atlas' that would contain the numerous data sets developed through Lake Erie coastal management and scientific research

programs. We encourage the OCMP to consult with the CSC on this project. The CSC has previously assisted the Oregon Coastal Management Program in developing an Oregon coastal atlas, and would be able to provide valuable technical advice to Ohio. The OCMP should also coordinate with other coastal entities such as Ohio Sea Grant, Old Woman Creek NERR and the Lake Erie Commission, to ensure that this coastal atlas is compatible with a variety of coastal uses and does not unnecessarily duplicate other data summaries that have been previously developed. As a part of this effort, the OCMP should also consider developing standards or guidance for grant recipients to ensure that grant work products will be submitted in a format that can easily be inputted in the GIS database and/or the coastal atlas. NOTE: Since the 312 evaluation, the CSC has met with ODNR staff in Columbus and Sandusky in order to assist the OCM's efforts in developing a Coastal Atlas and use GIS capabilities to effectively implement the OCMP. During this period, OCM has also greatly expanded the GIS capabilities of the Sandusky office.

#### PROGRAM SUGGESTION

8) The OCMP should work with the Department of Real Estate and Land Management and other agencies to identify ways to better use the Lake Erie Geographic Information System. The OCMP should also consult with coastal partners such as Sea Grant, Old Woman Creek NERRS, and the Lake Erie Commission to determine how the proposed coastal atlas can best serve these potential coastal constituents and ensure limited duplication of effort.

#### I) Marketing and Outreach

The OCMP has not pursued a proactive strategy to discuss policy and regulatory matters with local governments. For example, the OCM had not met with many local governments, until those governments had adopted resolutions adverse to the OCMP's positions on HB 218. Similarly, the program was ill prepared to address the concerns of lake-front property owners when this group engaged local and State level legislative bodies regarding perceived problems regarding OCMP. As a result, many of the initial public discussions of these issues were based on perceived fears rather than facts. The OCMP, since, has been working on changing public perception of the coastal program and various issues relating to the permitting process. An organized outreach program with well-defined goals and objectives would greatly assist this effort.

The reorganized OCMP has not been regularly publishing a coastal newsletter, updating their website or developing programs to actively educate the general public regarding coastal management issues in Ohio. Consideration should be given to developing outreach materials and programs targeted to specific audiences, such as school children or civic organizations and groups. While the program has passively used the new office on the Sandusky waterfront to provide coastal information and educational materials to passers-by who happen to enter the

building, this prime location could be used for active outreach efforts, such as an open house or speaker seminars.

A priority should be placed on providing factual information to address the concerns of affected parties concerning coastal issues and processes. A well thought-out Outreach Plan should be developed with clear goals and accomplishments in methods of evaluation and modification to identify progress. We strongly suggest that the OCMP use every opportunity to showcase the new Sandusky Office and its historic waterfront location. We encourage the ODNR to seek professional consulting services to develop this Plan.

#### PROGRAM SUGGESTION

9) The OCMP should develop an outreach plan designed to clearly articulate the program's goals and objectives to the residents of the coastal area. This outreach program should prioritize the dissemination of factual information that will increase public awareness of coastal issues and processes.

#### J) Coastal Resources Advisory Committee

The Coastal Resources Advisory Council (CRAC) is an important link for policy development and public outreach. Created through Ohio's Coastal Management Act, the Council consists of 19 members representing a broad range of interests, experience and knowledge related to the management, use, conservation and development of the coastal area. It annually selects a chair from its members and holds meetings at least quarterly in the coastal area. Meetings are open to the public, as are the records of these meetings.

The CRAC advises and makes recommendations to the ODNR Director on the development of coastal management policies, plans and programs, and on ways to enhance cooperation among governmental agencies having an interest in coastal management. In the past CRAC took on the task of revising the administrative rules for leasing Lake Erie submerged lands. The rules were adopted in July 1999 as the result of a two-year effort by OCMP staff, CRAC, and a sub-committee formed by CRAC that included non-CRAC members from the coastal area.

The impression of the Evaluation Team was that closer coordination is needed between the OCMP and CRAC to ensure coastal objectives are developed, articulated and met through harmonized efforts. The OCMP and CRAC would best serve Ohio through the adoption of common, coordinated strategies for Lake Erie coastal management.

The visibility and role of the OCMP could be enhanced by further strengthening the CRAC role as a link for public outreach. In the past CRAC was a key participant and motivator for ensuring public participation, both formally and informally, through workshops, public meetings and hearings. It was clear to the Evaluation Team that the members of CRAC, which represent a broad range of interests and stakeholders in Lake Erie coastal resources, could assume a stronger liaison-outreach role addressing resource management issues along Ohio's Lake Erie

coast.

CRAC might consider engaging various communities in informal forums that would allow for a "round-table" approach, versus one of "us vs. them" or the "government vs. the property owner". This format may allow CRAC to better represent various factions of the general public and assist in advising OCMP staff on programs to meet community needs. An example of a healthy partnership between a coastal council and a state coastal program is the Wisconsin Coastal Management Program, housed in the Department of Administration in Madison, Wisconsin. It might be instructive for OCM staff to discuss this model with their neighbors and even attend a specific meeting to observe how other coastal programs use the strengths of advisory groups and committees.

As the role of the CRAC evolves, OCM should:

- 1) explore other state models to see how the function is carried out elsewhere;
- 2) continue to provide direction to CRAC on how it can help meet the operational, planning, outreach, education, and program goals of OCM;
- 3) provide support as an executive secretariate to further guide and support CRAC; and,
- 4) consider the use of CRAC as a policy "sounding board" for the Program and as an advocate in the Capitol for its continued funding.

The Evaluation Team did not meet with the Submerged Lands Advisory Council (SLAC), as it was our understanding that the SLAC council is no longer functioning. The SLAC council was developed in order to advise the OCMP on submerged resources issues, such as maritime heritage interests, the creation of underwater preserves, and the protection and use of shipwrecks and other submerged resources. These are very important functions, and it is NOAA's position that if the SLAC council has been disbanded, then this expertise should be incorporated into the CRAC council. It is understood that ODNR supports legislative provisions to add submerged lands advisory expertise into the makeup of the CRAC council.

#### PROGRAM SUGGESTION

ODNR should undertake a thorough analysis of the role of the Coastal Resources Advisory Committee to make recommendations for improving the CRAC's role in the implementation of the OCMP and to develop actions to increase the council's effectiveness, including increased use of the CRAC in public outreach efforts and as a policy "sounding board."

#### V. CONCLUSION

Based on OCRM's review of the federally approved Ohio Coastal Management Program and the criteria at 15 CFR Part 923, Subpart 1, I find that Ohio is adhering to its federally approved coastal zone management program. Further advances in coastal management implementation will occur as the State addresses program suggestions contained herein. These evaluation findings contain ten (10) Recommendations. Three (3) of which are necessary actions and must be addressed in the time frames identified and seven (7) of which are program suggestions that the State should address before the next regularly scheduled program evaluation.

This is a programmatic evaluation of the OCMP that may have implications regarding the State's financial assistance award(s). However, it does not make any judgments on, or replace any financial audit(s) related to, the allocability of any costs incurred.

January 18, 2005	Signed
Date	Eldon Hout
	Director

# APPENDIX A OHIO COASTAL MANAGEMENT PROGRAM 312 EVALUATION

#### PERSONS CONTACTED DURING THE EVALUATION

Sam Speck Director, Ohio Department of Natural Resources (ODNR)

Ron Kolbrath Deputy Director ODNR

Nancy Strayer ODNR Natural Areas and Preserves (NAP)

Greg Schneider

Dee Hammil

Mickey Nygaard

Kim Baker

ODNR NAP Heritage Database

Chief Finance Officer, ODNR NAP

Grants Coordinator, ODNR NAP

Environmental Review, ODNR NAP

Chris George ODNR Legislative Liaison

Tom Davis ODNR, Real Estate and Land Management (REALM)

Randall Sanders ODNR, REALM Kathleen Bibb ODNR, REALM Bruce Motsch ODNR, REALM

Dick Bartz ODNR Division of Water Mark Ogden ODNR Division of Water

Steve Holland ODNR, Office of Coastal Management (OCM) Consistency

Coordinator

Bridget Stefan ODNR, OCM Submerged Lands Leasing Coordinator
Deborah Beck ODNR, OCM Shore Structure and Coastal Erosion Area

Permit Engineer

April Dunlap ODNR, OCM Shore Structure and Coastal Erosion Area

Permit Engineer

Joyce Hackett ODNR OCM Fiscal Section
Christine (Chris) Shaw ODNR, OCM Fiscal Section

Sara Rathburn-Yourkvitch ODNR, OCM Records Management Officer Brenda Collier-Gautschi ODNR, OCM Public Information Officer

Lynette Berkey ODNR, OCM Grants Section

Yetty Alley ODNR, OCM Grants Section Local Liaison

Dave Roseler ODNR Division of Watercraft
Connie Livchak ODNR Geological Survey
Don Guy ODNR Geological Survey

Gene Wright ODNR, NAP Old Woman Creek National Estuarine

Research Reserve

Greg Nageotte ODNR Soil and Water Matt Adkins ODNR Soil and Water

Others:

Eileen Bulan Historic Vermilion.

Edith Chase Ohio Coastal Resource Management Project

Kyle Dreyfuss-Wells Chagrin River Watershed Partners
Amy Holtshouse Chagrin River Watershed Partners

Dave Carek Ohio Lakefront Group Sandy Wade Ohio Lakefront Group Tony Yankel Ohio Lakefront Group

Vince Urbanski Mentor Marsh SAMP, Lake Metroparks

Ana Burns Mentor Marsh SAMP, Davey Resource Group

Darrel Webster Mentor Marsh SAMP, Lake County Planning Commission

Frank Lichtkoppler Mentor Marsh SAMP, Ohio Sea Grant Lynn Garrity Cuyahoga County Planning Commission

Michael Larkey City of Avon Lake
Wade Mertz City of Avon Lake
Bud Edwards Shoreline Contractors

Don Romancak Chief Planner, City of Lorain Chris Bauer Planner, City of Lorain Cynthia Frazini Assistant Attorney General

Franko Ruffini Ohio Historic Preservation Office (HPO)

Mark Epstein HPO

Dr. Jeff Reutter Ohio Sea Grant

Megan Seymore U.S. Fish and Wildlife Service

#### APPENDIX B

## OHIO COASTAL MANAGEMENT PROGRAM 312 EVALUATION

#### PERSONS ATTENDING THE PUBLIC MEETING

The Public Meeting for the Ohio evaluation was held on Wednesday, November 7, 2003 at 7:00 P.M. in the Erie County Commissioners Office, Large Chambers, 3<sup>rd</sup> floor.

*Roy Serocka	Port Clinton	
*Rosalee Serocka	Port Clinton	Lakefront Owner
*Sandra Wade	3651 W. Willow Beach Road	Ohio Lakefront Group (OLG)
Russ Claus	6719 W. Lake Road, Vermillion	OLG
Roger E. Drusbacky	734 Taft Street, Port Clinton	OLG
*Mary Drusbacky	734 Taft Street, Port Clinton	OLG
*Mike Thomas	Van Buren	OLG
Darla Duncan	1530 Willow Drive, Sandusky	
L. Scot Duncan	1530 Willow Drive, Sandusky	
Linda Fritz	2029 Anderson, Port Clinton	
*B. Gale Fritz	2029 Anderson, Port Clinton	
Jean Kern	3075 E. Erie Avenue, Lorain	OLG
Tom Kern	3075 E. Erie Avenue, Lorain	OLG
Steve Holland	105 W. Shoreline Drive, Sandusky	
Cynthia Longworth	124 S Sandusky St., Tiffirt	
*Barbara Evans	1801 E. Erie Ave., Lorain	Lakefront Owner
Bridget Stefan	105 W. Shoreline Drive, Sandusky	
April Dunlap	105 W. Shoreline Drive, Sandusky	
Deborah Beck	105 W. Shoreline Drive, Sandusky	
Bob Henderson	1018 Walnut Glen, Huron	
Gene Maturyerski	4001 Cleveland Road, Huron	
*Mike Zuilhof	243 E. Market St. #3, Sandusky	
*Ed Hauser	11125 lake Ave. #407, Cleveland	Citizen
*Adrian F. Betleski	1723 E. Erie Ave., Lorain	OLG
*Jim O'Coner	4269 Lake, Sheffield Lake	Private Property Owner
Dan Clemons	330 E. Perry Street, Port Clinton	
John Trease	3709 149 <sup>th</sup> Street, Toledo	
Donald E. Guy	1232 Marlboro Street, Sandusky	
Randy Pindon	2019 S. Anderson Ave., Port Clinton	1
Lowell Knittle	4198 Cleveland Rd. E., Huron	
Frank Foseo	129 Cedar Point Chaussee, Sandusk	y OLG

<sup>\*</sup> Participants who spoke at the meeting.

#### APPENDIX C

### OHIO COASTAL MANAGEMENT PROGRAM 312 EVALUATION

#### WRITTEN COMMENTS RECEIVED

#### **E-Mail Correspondence**

#### L. Scot Duncan

1530 Willow Drive, Sandusky, OH 44870 scotduncan@alum.mit.edu ph. 419-627-2945 fax 419-625-2904 cell 419-239-5019

November 6, 2003

John McLeod john.mcleod@noaa.gov by e-mail only with attachment

RE: Comments on Ohio CZMP review

Attached is a copy of the letter which I forwarded by mail to Ralph Cantral, the designated contact in the federal register notice.

While most of the comments at last nights meeting focused on the submerged land lease program, I agree with you that this is a state issue best addressed by the Ohio courts or legislature.

The only exception is that I have a real concern that the CZM focus of Ohio's staff and resources have been misdirected in a direction which is bad regulation, based on bad science and bad business practices.

ODNR's FY2002 annual report shows revenues from the submerged land lease program of \$423,025. This figure has been widely publicized by the Office of Coastal Management. However, I have never heard the Office mention the \$566,750 in expenditures which were required to generate that revenue. I believe your office has a duty to verify that federal funds were not expended for this purpose.

The other comments in my letter relate to specific shortcomings of the current Ohio program administration.

Very truly yours,

L. Scot Duncan

November 10/2003

**RE: OCMP Evaluation** 

Dear John McLeod:

We, Friends of Sheldon Marsh, have been fighting since July of 2000 against a dike and channel project illegally constructed in this rare, category III, coastal wetland on Lake Erie. We are writing to inform you of the importance our state's Coastal Zone Management Plan played in the effort to protect and restore Sheldon Marsh State Nature Preserve wetlands complex. Without the CZMP in place, which gives the state of Ohio the regulatory ability to oversee the actions of individuals in coastal wetlands, we would not have recently realized the Army Corp's order to restore the dike and channel project to pre construction condition. There would have been no recourse at the state level to deny the permit for this project without the coastal consistency requirement, one of two necessary to oversee the Army Corp permitting process. The original Army Corps permit, in this case, was improper from the first. To grant an after-the-fact permit was even more egregious, and the State of Ohio's denial of coastal consistency under the Coastal Zone Management Plan, along with the Ohio EPA's 401 denial, was eventually effective.

We realize that there are areas of this CZMP, which need work. However, we oppose H.B. 218 as it is now written, and any substitute bill, which does not undergo the careful and thorough scrutiny of our environmental community. This bill totally eviscerates our Coastal Zone Management Plan that must be in place to protect our coastal areas for all Ohioans. We worked initially with Mike Colvin on this issue but have not had input from the current Coastal Management Office. We hope in your evaluation of the program you find ways to strengthen the Ohio Coastal Management Plan and make it work for everyone.

Sincerely,

Pat Krebs and Pat Dwight Firelands Audubon Co chairs Friends of Sheldon Marsh Post Office Box 967 Sandusky, Ohio 44870 (419) 433-2132

#### APPENDIX D

### OHIO COASTAL MANAGEMENT PROGRAM 312 EVALUATION

#### STATE RESPONSE TO THE PREVIOUS FINDINGS

**RECOMMENDATION 1.** Program Suggestion: ODNR should take the necessary actions to clarify and elevate the role of the OCMP Coastal Program Manager. The position should be empowered with adequate authority to implement the OCMP properly and perform a leadership role in coastal zone management policy formulation.

**RESPONSE:** The ODNR created a new Office of Coastal Management (OCM) in 2002. The Office is staffed with newly created positions and positions that were previously housed within other divisions of ODNR, yet worked in the Coastal office. Among the responsibilities of the OCM are conducting reviews for Shore Structure Permits, Submerged Lands Leases, Coastal Erosion Area Permits, consistency determinations, and Salvage Property Permits. OCM also administers all grants associated with the OCMP and public information and education related to the OCMP. Similar to other ODNR divisions, OCM is managed by a Chief who is empowered with the authority to properly lead the Office and the OCMP.

**RECOMMENDATION 2.** Program Suggestion: Given the accomplishments of OCMP and the growth of the program as a result of those accomplishments, ODNR should conduct an assessment of OCMP's program functions, responsibilities and staffing required to effectively implement OCMP. This assessment should result in a strategy that addresses staffing needs in the areas of monitoring and enforcement, and outreach. The assessment should include a review of program functions and the "location" of those functions, i.e. headquarters or ODNR's CSC, in Sandusky. For example, locating additional staff and functions of the OCMP at ODNR's Coastal Services Center could have a very positive effect on coordination of OCMP various programs, increase efficiency, and provide a focal point for OCMP for local government, communities and the public.

**RESPONSE:** ODNR came to the conclusion that the most efficient way of administering the OCMP would be to create a separate office of the Department with its own chief and its own authorities. As a result OCM was created in 2002. OCM is the only ODNR division and/or office based outside of Columbus; it is based in Sandusky to improve the availability of staff and resources to the coastal communities of Ohio. This location has also increased the efficiency of the staff for site visits, attending meetings, monitoring the shoreline, and participating in other activities located in the coastal area. OCM's location has made it easier for staff to respond to calls regarding violations and has made the staff more accessible to coastal residents and interested parties, thereby increasing OCMP's public outreach, monitoring, and enforcement capabilities.

**RECOMMENDATION 3.** Program Suggestion: ODNR/OCMP is encouraged to maintain the Coastal Management Assistance Grants Program, as currently implemented, as a means of supporting local initiatives that protect and enhance Ohio's Lake Erie coastal resources thus furthering coordination and strengthening relationships among local governments, Universities, nonprofit organizations and other stakeholders.

**RESPONSE:** The Coastal Management Assistance Grants (CMAG) program has maintained its strong commitment to protecting and enhancing Ohio's lake Erie coastal resources. Recently, the grants have focused on master planning for coastal communities, while still addressing construction and land acquisition needs. The CMAG program strongly emphasizes communication with local communities, universities, and nonprofit organizations as a means of enhancing Ohio's coastal resources.

**RECOMMENDATION 4.** Program Suggestion: ODNR/OCMP is encouraged to continue its proposed plans to construct an ODNR Coastal Services Center that will house staff who provide technical assistance to coastal landowners and stakeholders along Lake Erie.

**RESPONSE:** ODNR considered several different potential locations for a comprehensive coastal services center. Among the factors considered were the adequacy of existing facilities, availability of space to house several agencies, the potential costs associated with such a facility, and ODNR's fiscal status. The search for such a facility resulted in the identification of an existing building on Sandusky's waterfront that is adequate for current and future staffing of the Office of Coastal Management, while raising the profile of the office. The new facility is historically significant for Sandusky and the region. The building is in an area of high tourist traffic because of its waterfront location. During the tourism season (late May – September) about 30 people a day stop in looking for information about the region. The Office of Coastal Management has assembled information regarding the various aspects of Lake Erie—from those directly related to coastal management to visitor's bureaus guides, ferry schedules, water level information, fishing and boating regulations, wetlands, State parks, etc. Coastal Information Boards are also designed and displayed in the Office's lobby windows. The boards are changed regularly and provide visitors with information regarding Lake Erie issues even when the Office is closed. An existing building on Sandusky's waterfront, adequate for current and future staffing of the OCM while raising the profile of the office was identified.

**RECOMMENDATION 5.** Program Suggestion: CRAC should consider developing a strategy to strengthen its liaison-outreach role to inform local officials, watershed protection groups, port authorities and private property interests on the benefits of the OCMP.

**RESPONSE:** During the evaluation period the Council has provided a forum for non-governmental organizations to provide input on the functionality of the OCMP and the state laws that govern the program.

**RECOMMENDATION 6.** Necessary Action: Within six months of these final findings, ODNR

must provide NOAA with a description of how all relevant enforceable policies are applied to Federal actions during the State's Federal consistency review. Additionally, ODNR must develop and submit to NOAA a strategy that strengthens the Federal Consistency component of OCMP and fully establishes the State and Federal consistency responsibility within REALM's Coastal Management Section as identified in the approved OCMP. This strategy must (1) take into account the significance and complexity of managing consistency in a networked program, and (2) based on the number of reviews per year, consider creating a permanent full-time position within REALM's Coastal Management Section responsible for effectively implementing Federal and State consistency.

**RESPONSE:** During the course of the review period, all Federal and State Consistency functions were transferred from REALM in Columbus to the Office of Coastal Management in Sandusky. As a part of this transition, a full-time Consistency coordinator was hired to more adequately address the Consistency component of the OCMP. Since the Consistency coordinator was hired in January, 2002, a great deal of focus has been placed on two areas. One area was for the Consistency coordinator to fully understand the many aspects of federal and state laws and regulations related to the administration of the program, as well as those related to the OCMP enforceable policies. The other area of focus has been on strengthening the relationships with partner agencies, most notably REALM's environmental review section, the Ohio Environmental Protection Agency, and the Army Corps of Engineers. The Consistency coordinator has been actively participating in Corps of Engineers Dredge Material Management Plan meetings for the Toledo, Lorain, and Cleveland harbors. The Toledo efforts have included a significant amount of coordination with local governments. The Consistency coordinator has become a member of the Lorain Confined Disposal Facility vision task force and has participated in numerous meetings and workshops related to coastal issues. The coordinator has also recently forged an agreement with the Ohio EPA to more closely coordinate site visits between the two agencies and other agencies as needed.

#### APPENDIX E

# OHIO COASTAL MANAGEMENT PROGRAM 312 EVALUATION

#### TABLE OF RECOMMENDATIONS

<b>Evaluation Recommendations For:</b>	Ohio
<b>Evaluation Findings Issued:</b>	(Date)

Number/Type of Recommendation		Recommendation Text	Required Date
Number	1	A coherent long term and short term strategy that effectively uses the capability of the networked coastal	
Necessary Action	X	program and other coastal partners, and addresses the core authorities of the approved OCMP, must be	
Program Suggestion		developed and submitted to OCRM within six months of the receipt of these findings.	
Number	2	A comprehensive examination of the enforcement of the coastal management regulations must be undertaken.	
Necessary Action	X	The OCMP must develop a viable program of regulation to be carried out in concert with outreach to coastal local governments and the general public. The OCMP must submit a plan for increasing enforcement of and compliance with coastal regulations to OCRM within one year of the receipt of these findings.	
Program Suggestion			
Number	3	The OCMP must submit all program changes to NOAA in accordance with OCRM's 1996 Final Program Change Guidance, including changes created by	
Necessary Action	X	program reorganization. Draft program changes must be submitted to OCRM for review within 6 months of receipt of these findings. In addition, in the event that Ohio passes legislation significantly changing the OCMP, Ohio must promptly submit these program changes to NOAA for review.	
Program Suggestion			

Number  Necessary Action	4	ODNR should move rapidly to complete the staffing of the OCM. Priority should be placed on filling all remaining positions, prioritizing mid-level management and natural resource management expertise, and providing appropriate training to staff members. In	
Program Suggestion	X	addition, internal and external operating procedures should be documented to provide institutional guidance over the long term.	
Number	5	ODNR/OCM should prepare a definitive administration policy statement on submerged land leasing issues and the Lake Erie Public Trust	
Necessary Action		boundary. A public outreach campaign to educate coastal residents about state policies on submerged lands should also be undertaken. ODNR may want to	
Program Suggestion	X	consider establishing a "blue ribbon" panel of experts on submerged lands policy to provide guidance on this issue.	
Number	6	The OCM should improve communication and coordination with agencies and coastal partners at the	
Necessary Action		local, State, and Federal levels, including internal communication among ODNR programs. The OCM	
Program Suggestion	X	should consider recreating the Integrated Management Team that was in place prior to 2001.	
Number	7	OCM should develop a clear and concise description of	
Necessary Action		the federal consistency process in the State and distribute it to Federal, State and local agencies and the	
Program Suggestion	X	public.	
Number	8	The OCMP should work with the Department of Real Estate and Land Management and other agencies to identify ways to better use the Lake Erie Geographic	
Necessary Action		Information System. The OCMP should also consult with coastal partners such as Sea Grant, Old Woman Creek NERRS, and the Lake Erie Commission to	
Program Suggestion	X	determine how the proposed coastal atlas can best serve these potential coastal constituents and ensure limited duplication of effort.	

Number	9	The OCMP should develop an outreach plan designed to clearly articulate the program's goals and objectives	
Necessary Action		to the residents of the coastal area. This outreach program should prioritize the dissemination of factual	
Program Suggestion	X	information that will increase public awareness of coastal issues and processes.	
Number	10	ODNR should undertake a thorough analysis of the role of the Coastal Resources Advisory Committee to	
Necessary Action		make recommendations for improving the CRAC's role in the implementation of the OCMP and to develop actions to increase the council's effectiveness,	
Program Suggestion	X	including increased use of the CRAC in public outreach efforts and as a policy "sounding board."	