Workshop Summary
Ohio Habitat and Species Workshop
December 2, 2008
Lorain County Community College
Elyria, Ohio

John Watkins, Chief of the Ohio Coastal Program (ODNR) provided a brief welcome. Victoria Pebbles, Great Lakes Commission, reviewed the agenda and logistics of the day.

Mike Greer, U.S. Army Corps of Engineers, Buffalo District, provided an overview of the Corps' Great Lakes Habitat Initiative (GLHI), which provided the impetus for the 2007 state habitat workshop series, developed regional data base of habitat projects (actual and proposed), and a data base of habitat funding programs. The GHLI also produced a final implementation plan, primarily directed at the Corps, but also for consideration by other agencies. These products are available online at www.glhi.org. Greer noted that the GLHI was a 2-year project that has been officially completed, but that the stakeholder involved have continued to work together and are now part of a formal Habitat/Species Subcommittee under the Great Lakes Regional Collaboration Strategy (GLRC). Greer completed this overview with a brief description of recent updates underway to improve and link the habitat and projects databases

Roger Gauthier provided additional detail on the updates and enhancements underway for the habitat projects data base/repository and the habitat funding data base. These enhancements include additional quality control over projects that were previously entered, a more simplified data entry form for habitat projects, a new, more user-friendly web user interface and linkages with the funding data base. Regarding this last point, Gauthier provided examples of how users will be able to query the data bases to find potential funding sources that match habitat projects. Finally, he indicated that enhancements are expected to be fully functional in early January, 2009.

Participants then heard from a panel of state agency personnel involved with habitat projection and restoration from a statewide perspective. Ed Hammett, Director of the Ohio Lake Erie Commission provided an overview of the Ohio Lake Erie Protection and Restoration Plan, which was recently updated in 2008 and mirrors the eight themes of the GLRC, but includes water quantity issues and climate change for a total of 10 priority issue areas. Under these ten priorities, Hammett informed participants that the Plan has 17 goals, 65 strategic objectives and 321 actions to be completed between 2009 and 2011. The actions are specific and the state has developed a suite of performance measures to demonstrate progress under the Plan.

Steve Barry of the Ohio DNR Wildlife Division provided an overview of state wildlife management planning, pointing to the Joint Ventures under the North American Wetlands Conservation Act as an effective model for implementing state priorities over a larger region. The Great Lakes Fish and Wildlife Restoration Fund was also highlighted as an important source of funding. Barry concluded his remarks by discussing obstacles to restoration posed by existing wetlands regulations at the federal and state levels.

Wetlands regulations, he noted, are designed to protect those lands from degradation. The regulations assume that any modification of wetlands will result in degradation and are not well-suited to regulating wetlands restoration projects that are modifying degraded areas in ways that will improve them.

Roger Knight described ecological needs for protecting and restoring fisheries habitat, focusing on the importance of nursery areas in addition to spawning areas. Connectivity between nursery and spawning areas is critical to healthy fish populations and this is a good starting point for identifying restoration opportunities. Changing lake levels is another factor that influences fisheries. Barry noted that current regulations are not adequate for addressing fish habitat needs in light of lake level changes.

Discussion ensued about navigation infrastructure and its role providing opportunities for recreational boating, but also the potential for removing or modifying some of that infrastructure to enhance habitat. There is a need to clarify specific requirements for obtaining wetlands permits for *restoration* projects.

Additional discussion ensued about wetlands regulations and uncertainties in state and federal authorities in light of the *Rapanos v. United States*, 126 S.Ct. 2208 (2006) ("*Rapanos*") and *Solid Waste Agency of Northern Cook County* v. *United States Army Corps of Engineers,* 531 U.S. 159 (2001) ("SWANCC") decisions. These U.S. Supreme Court cases considered the extent of federal jurisdiction of wetlands under the Clean Water Act and specifically whether the Act applies to wetlands adjacent to non-navigable waters that flow into navigable waters. With splintered votes and disparate rationales, the Supreme Court has failed to resolve this issue, placing burden back on the states to define the extent of wetlands regulation.

Gildo Tori, Policy Director of Public Policy at Ducks Unlimited provided an overview of Healing Our Waters coalition and described ways the HOW can help advance state priorities related to habitat restoration and protection. Tori encouraged those present to join the HOW coalition. Tori also provided an overview of the Joint Ventures model that is used to implement the North American Waterfowl Management Plan under the North American Wetlands Conservation Act. Tori further described efforts underway in Michigan and Wisconsin that establish statewide frameworks to implement habitat restoration goals articulated in the GLRC Strategy.

Steve Barry ODNR discussed several specific wetlands projects that are facing obstacles to implementation and raised issues for open discussion among participants. The need for a regulatory framework that recognizes wetlands restoration differently from other wetland altering activities (e.g., development) was re-emphasized by participants at the Ohio habitat workshop. Increased and improved communications between regulatory and natural resource management agencies is needed to overcome obstacles to wetland restoration. The desire for a clarified process for permitting restoration projects was re-emphasized. Lack of staffing for regulatory programs was noted as a problem for timely processing of permits. The concept of a wetlands permitting coordinator who would coordinate between natural resource and regulatory agencies was suggested as a potential solution.

Eric Weimer of ODNR described a proposed project called "Middle Harbor." Past engineering effectively cut off this portion of the harbor from ecological processes required to maintain wetland health. This proposed project would place clean dredged material in this severely degraded portion of the harbor in attempt to reduce turbidity and flushing and increase vegetation and possibly fish habitat. Discussion returned to the challenges with obtaining permits for restoration projects. The U.S. Army Corps has rejected the state's permit application for this project. One participant questioned the basis for the U.S. Army Corps' authority for regulating wetlands since it has no management mandate over wetlands or habitat. Additional discussion ensued about the ubiquitous challenge of coming up with the perfect restoration project that improves aquatic habitat, fisheries, vegetation, upland habitat, etc. Most agreed that such perfect project rarely exists and emphasized the importance of allowing projects that might only improve one type of habitat, possibly at the expense of another, or at least with no benefit to related habitat.

Given challenges with wetlands permitting, a suggestion to focus on headwaters was made, since headwaters, like wetlands, can provide a wide variety of ecological benefits. Another participant noted that headwaters are likely to face increasing regulation and, while worthy of protection, focusing on them over wetlands will not necessarily avoid regulatory obstacles. Indeed, new regulations that will affect headwaters have been drafted by Ohio EPA and are currently out for public comment.

Federal agency representatives from the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and the U.S. EPA provided brief overviews of their habitat funding programs and handed out related materials or pointed participants to relevant web sites.

Roger Gauthier revisited the web tools with a more detailed demonstration of how to use the web tools to search for potential funding to for specific habitat projects.

In summary, the most prominent theme from the workshop was the need for a regulatory framework that recognizes restoration projects differently from other activities that might alter a "natural" area (e.g., development). The need for improved communications between regulatory agencies and natural resource management agencies is imperative to improve this process. Specific recommendations/discussion points included:

- Almost any restoration activity will disturb a "natural" area, making in ripe for invasive species. All projects should consider and plan for this potential impact.
- State agencies should modify Section 401 water quality certification rules to require mitigation projects to stay within the watershed.
- Linking projects with potential funding sources is a good start, but it falls short of the challenges associated with multiple federal authorities being administered differently for a single project. The need for greater federal agency coordination on the ground with restoration.
- Help is needed with land acquisition and land assemblage. Large restoration projects often involve multiple parcels of land, often with multiple landowners.
- Consider scoring projects, giving priority ranking to those that best meet the goals, objectives and strategic actions of the Lake Erie Protection and Restoration Plan.

- The importance of improving land uses surrounding a protection/restoration project cannot be overlooked. Protection and restoration success will hinge largely on managing influences from surrounding land uses.
- Consider establishing short term accomplishments/interim outcomes for habitat projects in order to celebrate small successes and have something that stakeholders can rally around and build upon for future project phases/work
- Use information from existing federal grant reports (e.g., interim and final reports from grant recipients) to populate the habitat projects data base/repository. This can be done by creating common fields in all federal habitat project reporting forms and building technical capability to mine selected (e.g., non-sensitive) data from these reports. This also would reduce the amount of additional work demand to populate the data base because it would be populated through standardized federal reporting requirements.