

**The Great Lakes Trading Network:
Markets for the New Millennium**

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Chicago, Illinois

**States' Perspectives on Trading
To Achieve Reductions Required by
The Clean Water Act**

Presented by:



ASIWPCA

**The Association of State and Interstate
Water Pollution Control Administrators**

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The Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) is the national organization of State officials who implement the Clean Water Act and frequently other national environmental legislation. The Association is committed to the environmental objectives set forth in the law in a common sense and creative manner. The Association's membership is most interested in the concept of trading and has found that there are many examples where trading between point and nonpoint sources of pollution has been a useful tool.

As a national organization with a 36-year history, the Association's experience is that it is easier to test and adopt new concepts at the State and regional level. Traditionally, these State laboratories have been the basis for national policy.

A plain reading of the Clean Water Act indicates that the concept of trading is embedded in many of its provisions. They relate to:

- Section 208 planning and implementation,
- 303 (e) basins plans,
- 303(d) total maximum daily loads,
- 319 nonpoint source control and
- Waste load allocations for Section 402 permits.

This conference agenda clearly illustrates these points. And, because of the diversity of geographic and political concerns, States have and will likely to continue to take different approaches to trading. Environmental challenges vary; environmental benefits can also vary and in many instances yield impressive results.

The important aspect of trading is to be part of the solution rather than the problem. We at ASIWPCA often talk of flexibility to undertake creative problem solving. This is essential, even though there are times when we find it difficult to explain just what flexibility means. To us it means: "Establish the goal and let the professionals explore and test options to meet that goal." Creative options, like trading, demand the flexibility to be creative and to make some mistakes. Trading will also demand the necessary time, funds and other professional and technical resources to bring the trading schemes to fruition in the most efficient manner.

The multi-media nature of the environmental problems we face cries out for such approaches.

In this era of Total Maximum Daily Loads, (TMDL's) it is essential that we find creative strategies to bring the various media programs together in an integrated fashion with the ultimate goal of protecting of surface waters, drinking waters, and source waters. We know that what goes up into the airshed, can descend and cause serious water quality problems. Again, within this climate of TMDL's, perhaps the opportunity exists to look at multi-media trading, along side of watershed related trading processes.

It is no news to anyone at this conference that these trading approaches will take time and because of their complexity, will not be an easy task to complete. To some, the concept of trading is apple pie and motherhood. They see little downside to providing flexibility regarding who should do what, how much and when -- so long as the environmental end-point is achieved. This is a perspective that many adopt when it relates to them directly. But it seems more difficult to accept when you are in a position of having to demonstrate and be accountable for the results. Local governments tell the States, we want flexibility. States say the same thing to the Federal government and the Federal folks tell that same story to the Congress. Yet we are challenged by our own rhetoric when we look in directions other than our own.

This is particularly true inside the Washington DC beltway. Accountability seems to be today's watchword and the concept of trading and flexibility to make mistakes is not universally embraced. Given this national tone, there are major hurdles to overcome:

- The Trading Concept means different things to different people. To be successful, the Stakeholders need a common basis of understanding in order to have meaningful dialogue.
- In some arenas, the term has negative implications and raises red flags. Some even view Trading as a license to pollute, and others, for example, have deemed the concept as extortion. Such concerns need to be addressed head on and further explored by the proponents of Trading.
- Discussions, particularly in the abstract, bring to the forefront fairness issues. For example, should pollutant reduction be strictly proportional. And, of course one might ask why the point sources should be expected to fund of nonpoint source solutions. There is a good point to be made that point sources have already invested heavily in the clean up of the nation's waterways. They may say that they have been investing for more than 30 years and may further question why the nonpoint source dischargers have invested so little. This is a good question, with a myriad of answers and responses, most of them having to do with the statute as currently written.
- To carry out complex approaches geared to achieving environmental results, trust is essential. And, Trust is a scarce commodity these days. This is true across disciplines, multiple stakeholders and within the many levels of government. Poll after poll tells us that the public doesn't trust its government. We hear that Dan Rather has more credibility with the public than most heads of State Government. Why is this? A subject for a longer debate in another forum. But, the fact remains and must be addressed when developing a Trading opportunity.
- To get something in the end that really works, traditional approaches must be well examined, accepted if effective, put aside if they are not. And, the stakeholders need to be willing to negotiate, give a little, take a little and of course, invest their personal time and talents to problem solving.
- Good quantification and measurement of environmental results is critical to the success. Yet, not enough progress is being made in this arena. States and USEPA are working to fill that void, but it will take time to move away from traditional methods and the ever-present bean counting. There is a place for bean counting, make no mistake. We all want to know where we started, what we did, what was accomplished and what remains to be done. And a way to do this is count things up and document these results. So we will never get away from the beans, but improvement in water quality is the ultimate result and we cannot let that goal be supplanted by numbers on a Gant chart.
- While there is no "right" approach, there is always a tendency to second-guess State and local consensus. The temptation needs to be resisted at all levels. Again, that old Trust Factor comes into play.

- While the intent of national policy is to support States doing the “right thing”, the end result is often prescriptive. That is the way our environmental business has traditionally been done. The offset proposal in the USEPA proposed regulation on TMDL’s is one example. States however, prefer “Performance or Functionally Equivalent” based policies for program implementation. These strategies are emerging and will likely take time, as will Trading, to take root and become embedded in our national programs.

At the crux of these issues is the need for State and Local stakeholders to lead by example and use the gathered data to inform national dialogue. As State comments on the proposed offset in the TMDL regulations illustrate, there are many ways to go about Trading, depending on circumstances.

As one State observed, “We believe that a fuller discussion and some experience in trying to craft [the proposed] offsets would be valuable in setting a general rule for how to manage them.”

As dialogue increases on Clean Water Act reauthorization and as national policies are revised in light of new management and environmental challenges, trading will be a viable concept on the table for national debate. Bringing those who have a stake in promoting this concept to a conference of this kind will undoubtedly be of value to all who enter into the discussion on Trading.

And, I am sure that the States will want to take the lead in that discussion.

I thank you for inviting me to join you all here today and I welcome any questions or comments.