

INTERNATIONAL JOINT COMMISSION

50-1-5:15

21 August, 1998

IN THE MATTER OF EMERGENCY REGULATION OF THE LEVEL OF
RAINY LAKE AND OTHER BOUNDARY WATERS IN THE RAINY LAKE
WATERSHED

SUPPLEMENTARY ORDER

to the Order Prescribing Method of Regulating the Levels of Boundary Waters, dated 8 June 1949, as amended by Supplementary Orders dated 1 October 1957 and 29 July 1970.

The Commission has been informed in a letter dated August 13, 1998 from the International Rainy Lake Board of Control (hereinafter referred to as "the Board") that the level of Rainy Lake is below the IJC operating band and is expected, under current conditions, to go below the lower emergency level of 1104.6 feet within a few weeks unless action is taken to reduce outflow from the lake or widespread rainfall is received.

The Commission's 1949 Order, as amended, (hereinafter referred to as "the Order") provides in part that emergency conditions exist on Rainy Lake when water levels are below 1104.6 feet above mean sea level and that emergency conditions exist on Namakan Lake when water levels are below 1108.6 feet above mean sea level. The Order also provides that "in order to prevent the occurrence of

such emergency conditions, it is necessary to anticipate high and low inflows to said lakes insofar as possible and so regulate the outflow at the Kettle Falls Dams and the International Falls-Fort Frances Dam as to avoid as far as possible the occurrence of such conditions." To achieve this objective the Order prescribes total outflows of 4000 cfs between the hours of sunrise and sunset in the months of May to October, inclusive, and 3300 cfs at all other times for Rainy Lake and 1000 cfs for Namakan Lake whenever the levels of the lakes are below the respective IJC operating bands in the Order.

To conserve water during the current drought conditions and to avoid as far as possible the occurrence of emergency conditions on Rainy Lake, the International Rainy Lake Board of Control has recommended that the minimum permissible outflow from Rainy Lake be reduced to 2250 cfs until such time as the level of the lake is back within its band. The Board has also requested that it be given authority to set the actual outflows at or above the minimum permissible value at its discretion, until Rainy Lake is back within its band, subject to maintaining Rainy River dissolved oxygen levels at or above 5mg/l, ensuring an adequate water supply for the Town of Emo, Ontario and providing the Rainy River First Nation Fish Hatchery with two days advance notice of the Commission's intention to permit flows below those prescribed in the Order.

The Board has informed the Commission that, in reaching its recommendations, it has consulted with the International Rainy River Water Pollution Board, the Ontario Ministry of the Environment, the Ontario Ministry of Natural Resources, the Minnesota Pollution Control Agency, the Minnesota Department of Natural Resources, the Minnesota Department of Health, the Rainy River First Nation (through the Ontario Ministry of Natural Resources), the municipalities of Baudette and International Falls in Minnesota and Emo and Rainy River in Ontario, Abitibi-Consolidated Corporation and Boise Cascade Corporation. The Board also notified the Rainy River First Nation Fish Hatchery on August 21, 1998 that the Commission intends to permit flows below those prescribed in the Order.

On August 17, 1998, the Commission issued notices of its intention to issue the Supplementary Order recommended by the Board and invited public comment. The Commission has received no comments objecting to such a Supplementary Order.

The Board has also informed the Commission that, although Namakan Lake is below its operating band, it believes that the current rate of decline of

Namakan Lake will not develop into an emergency condition, as defined in the Order, at least over the next two months. The Board considers that a Supplementary Order for Namakan Lake is therefore not warranted at this time. The Board will, however, monitor the situation on Namakan Lake closely and advise the Commission accordingly.

Based upon the above information and advice, the Commission concludes that a reduction in the outflow from Rainy Lake below that prescribed in the Order is required to avoid as far as possible the occurrence of emergency conditions in the Rainy Lake watershed during the current year.

THE COMMISSION THEREFORE ORDERS AND DIRECTS THAT, notwithstanding the terms of the Commission's Order dated 8 June, 1949, as amended, the outflows from Rainy Lake shall be determined by the International Rainy Lake Board of Control provided that the outflows are no lower than 2250 cfs, maintain Rainy River dissolved oxygen levels at or above 5 mg/l, ensure an adequate water supply to the Town of Emo, Ontario and minimize disruption to the fishery in the Rainy River. The Board shall inform Abitibi-Consolidated Corporation and Boise Cascade Corporation (hereinafter referred to as "the companies") in writing of the permissible outflow from Rainy Lake.

The Companies shall ensure that dissolved oxygen levels are monitored once per week in the Rainy River at the following three locations:

1. Upstream from Fort Frances
2. At the 19 km range marker
3. Upstream from Manitou Rapids

Furthermore, the Companies shall provide the United States and Canadian members of the International Rainy Lake Board of Control and the Co-Chairmen of the International Rainy River Water Pollution Board with outflow information on a daily basis and with dissolved oxygen information weekly.

In the event that it comes to the attention of the International Rainy River Water Pollution Board or either Company that flows are causing difficulties downstream from International Falls-Fort Frances, they shall immediately inform the Commission and the International Rainy Lake Board of Control.

The Board shall keep the Commission informed on a weekly basis of Rainy and Namakan Lake levels and flows and shall, as appropriate, keep the Commission fully informed of relevant conditions.

Unless otherwise ordered by the Commission, this Supplementary Order shall continue in force until the level of Rainy Lake is within the band prescribed in the Order.

Dated this 21st Day of August 1998

By the Commission

Murray Clamen

Secretary, Canadian Section



Murray Clamen
for both

Gerald E. Galloway

Secretary, U.S. Section