

Summary of Minnesota Cities' Position re IRRB's Proposed Nutrient Objectives for the Red River

The International Red River Board's (IRRB) report recommends nutrient concentration objectives and load targets for total phosphorus (TP) and total nitrogen (TN) for the Red River. Minnesota cities are interested in this matter because (1) we are concerned for the health of the Red River and Lake Winnipeg, and (2) the enforcement of any new nutrient objectives could have multi-million dollar impacts for our wastewater treatment plants. We want to ensure any future investments in our facilities will have meaningful environmental impacts.

The Red River cities support the development of load targets for the Red River that are necessary to protect Lake Winnipeg, but we need more information to review and comment on the specific load targets proposed.

- The Federal Registrar notice dated December 27, 2019 was the first notice we received related to IRRB's specific recommended load targets for the Red River based on Lake Winnipeg and we have not had an opportunity review the technical basis for the proposed load targets.
- It is critical that any load targets should be enforced uniformly between Minnesota and North Dakota.
- The enforcement of any load targets should be based on a Total Maximum Daily Load study or similar public process that assigns loads equitably to Minnesota, North Dakota and Manitoba as well as to all sources of nutrients to the river.
- Enforcement of any load targets should utilize adaptive management and cost-effective implementation strategies, such as point-to-point nutrient trading.

The Red River cities object to the proposed TP and TN concentration objectives for the Red River because the recommended objectives directly conflict with Minnesota's standards and are not based on a demonstration that they are necessary or sufficient to protect the Red River or Lake Winnipeg.

- The recommended concentration objectives for TN are unprecedented¹ and directly conflict with Minnesota's adopted and EPA-approved River Eutrophication Standards.²
- The IJC Consensus Report³ agrees with Dr. Chapra and Hall & Associates that the RESPEC report failed to identify biological thresholds at which adverse impacts to designated uses occur in the Red River.

¹ None of the Great Lake states regulate TN in rivers and very few states in the U.S. regulate TN for eutrophication except for in marine waters. See <https://www.epa.gov/nutrient-policy-data/state-progress-toward-developing-numeric-nutrient-water-quality-criteria>). TN is not regulated under the Great Lakes Water Quality Agreement. See generally Great Lakes Water Quality Agreement, available at https://binational.net/wp-content/uploads/2014/05/1094_Canada-USA-GLWQA-e.pdf.

² Minnesota's River Eutrophication Standards do not regulate TN in Minnesota Rivers, including the Red River. Minn. R. 7050.0222.

³See Consensus Report for the International Joint Commission on RESPEC 2016 Report (Dodds & Baulch), p. 8.

- Without identifying biological thresholds at which adverse impacts occur in the river, there is no legitimate scientific basis to demonstrate the nutrient targets are necessary or sufficient to protect the river.⁴
- The proposed TP concentration objective for the Red River is not tied to a response variable, which directly conflicts with Minnesota’s regulation of TP in rivers, including the Red River.⁵
- IRRB’s recommended targets assume the Red River is impaired for nutrients and requires TP controls to protect the river—which directly conflicts with the Minnesota Pollution Control Agency’s findings based on state standards.⁶
 - This finding is particularly concerning given that the Consensus Report acknowledges that the RESPEC report failed to identify biological thresholds at which nutrients would have adverse impacts in the river.⁷
- If the end goal of IJC’s effort is to protect Lake Winnipeg, the proposed concentration objectives are not necessary as scientifically defensible load targets would protect the Lake without the need for concentration targets.

The cities respectfully request that IJC:

- Agrees to provide the cities and their representatives the technical information relied upon to develop the proposed load targets for Lake Winnipeg so that we can review and comment on the technical basis for those targets.
 - If necessary, agree to extend the public comment period to allow us time to review and comment on this information.
- Withdraws from the recommended TP and TN concentration objectives unless and until the identified technical deficiencies are corrected.
- At minimum, agrees to meet with the cities and their technical consultants to develop a consensus on how to address the cities’ technical concerns related to the proposed nutrient objectives prior to making any formal recommendations to Canada, U.S., Manitoba, North Dakota or Minnesota.

⁴ SAB Review of Empirical Approaches for Nutrient Criteria Derivation. (April 27, 2010). EPA-SAB-10-006. Available at [https://yosemite.epa.gov/sab/sabproduct.nsf/0/E09317EC14CB3F2B85257713004BED5F/\\$File/EPA-SAB-10-006-unsigned.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/0/E09317EC14CB3F2B85257713004BED5F/$File/EPA-SAB-10-006-unsigned.pdf).

⁵ MN’s approved RES requires exceedance of algal criteria before TP regulation applies. Minn. R. 7050.0150, Subp. 5b.

⁶ See Minnesota’s Impaired Waters List, available at <https://www.pca.state.mn.us/sites/default/files/wq-iv1-65.xlsx>.

⁷ See supra note 3.