

## **Directive to International Rainy-Lake of the Woods Watershed Board**

**April 1<sup>st</sup> 2013**

1. This directive creates The International Rainy-Lake of the Woods Watershed Board (IRLWWB) (Board) by merging and expanding the responsibilities of the former International Rainy River Water Pollution Board and the International Rainy Lake Board of Control, replaces previous directives to those former boards, and sets out the mandate under which the Watershed Board will operate.
  - a. The International Joint Commission (Commission) established the International Rainy Lake Board of Control in 1941 to assist it in the matter of emergency regulation of the level of Rainy Lake and other boundary waters in the Rainy Lake watershed, in accordance with the 1938 Rainy Lake Convention between the Governments of Canada and the United States. The Commission issued an 8 June 1949 Order prescribing the method of regulating the levels of boundary waters, amended that Order via Supplementary Orders issued 1 October 1957, 29 July 1970, and 5 January 2000; and provided an 18 January 2001 Consolidated Order that consolidated and replaced the previous Order and Supplementary Orders.
  - b. The Commission established the International Rainy River Water Pollution Board on 18 January 1966 to assist it in complying with the Reference from the U.S. and Canadian Governments by reporting on progress to address pollution in the Rainy River on the basis of the Water Quality objectives as approved by Governments in letters dated 13 December 1965 and to report on other water quality problems.
  - c. The Commission is establishing the International Rainy-Lake of the Woods Watershed Board to assist it in carrying out responsibilities previously assigned to the former boards and in implementing recommendations made by the Commission to the two Governments in a 30 January 2012 report, as supported by U.S. and Canadian Governments letters dated 20 June 2012 and 25 July 2012, respectively. The report responded to a 17 June 2010 reference from the two Governments, pursuant to the Boundary Waters Treaty of 1909, regarding binational management of the international waters of the Lake of the Woods and Rainy River watershed and the Commission's role in that management.

2. The Board's mandate is to ensure compliance with the Commission's Order pursuant to the Rainy Lake Convention, to monitor and report on the ecological health of the Lake of the Woods and Rainy Lake boundary waters aquatic ecosystem, including water quality, and to assist the Commission in preventing and resolving disputes regarding the boundary waters of the Lake of the Woods and Rainy River watershed. The Board shall accomplish its mandate by exploring and encouraging the development of local and regional capacity to prevent and solve problems locally, applying the best available science and knowledge, and maintaining an awareness of the needs, expectations and capabilities of residents of the Lake of the Woods and Rainy River watershed.
3. The Board may establish committees and working groups as may be required to fulfill its responsibilities in a knowledgeable and effective manner. Members may not necessarily be Watershed Board members, but may be drawn from the Community Advisory Group (CAG) or Industry Advisory Group (IAG)<sup>1</sup> or other members of the larger community. The Commission shall be kept informed of the duties and composition of any committee or working group.
4. The Board's duties shall be to:
  - a. Recommend, as appropriate, water quality and/or aquatic ecosystem health objectives for the boundary waters of the Lake of the Woods and Rainy River watershed<sup>2</sup> and maintain continuous surveillance over the quality of water and health of the Lake of the Woods and Rainy River boundary waters aquatic ecosystem, with particular focus on priority issues within the basin such as water quality, alien aquatic invasive species, climate change indicator and adaptation, and ground and surface water contamination, as identified by the International Lake of the Woods and Rainy River Watershed Task Force's Study.
    - i. Continue to carry out evaluations and assessments from time to time as the Board considers necessary or desirable to ascertain the extent to which existing water quality objectives, such as approved by the Governments

for the Rainy River in 1965, are being met.

- ii. Notify the Commission of instances where existing water quality objectives are not being met and of actions being taken by those responsible for sources of pollution and by the regulatory agencies to meet these water quality objectives.
  - iii. Review boundary waters water quality and aquatic ecosystem health from time to time and recommend to the Commission such amendments and additions to water quality or aquatic ecosystem health objectives as might be appropriate. At minimum, within one year after completion of, or updates to, major water studies and plans, review existing objectives and present a report to the Commission recommending whether or not to establish new or adjusted objectives, and any such objectives and their levels, so the Commission can consider bringing them forward to Governments for approval. One example of a major water study or plan is a binational comprehensive basin water management plan for Lake of the Woods and Rainy River watershed, which could have subsequent major updates, anticipated each decade.
- b. Select, determine, establish, and report on water quality and/or aquatic ecosystem health alert levels within the waters of the Lake of the Woods and Rainy River watershed in order to identify potential problems for boundary waters for which water quality objectives have not been established, with particular focus on priority issues within the basin such as water quality, alien aquatic invasive species, climate change indicators and adaptation, and ground and surface water contamination<sup>3</sup>.
- i. Continue to identify water quality problems on the Rainy River through a process based on comparisons of monitoring data with alert levels selected by the Board as the most stringent water quality guidelines being used by local, state, provincial or federal agencies for such pollutants.

- ii. Establish alert levels for biological, physical and chemical constituents the Board deems important within the Lake of the Woods and Rainy River watershed.
  - iii. Thereafter, report annually to the Commission on alert levels, exceedences and implications, actions being taken by those responsible for drivers of exceedences, if any, and actions being taken by regulatory agencies, if appropriate.
  - iv. Review alert levels from time to time and make such amendments and additions as might be appropriate.
- c. Ensure compliance with the terms of the Order in the matter of emergency regulation of Rainy Lake and other boundary waters in the Rainy Lake watershed, and act as technical adviser to the Commission on this matter. The Board shall delegate its authority in this paragraph to a Rainy and Namakan Lake Water Levels Committee, (Water Levels Committee) which acts independently of the Board, while keeping it informed. The Commission shall appoint as Chairs of the Water Levels Committee, the Chairs of the International Lake of the Woods Control Board (ILWCB). The ILWCB was established by the Lake of the Woods Convention and Protocol of 1925, and its members are appointed by their respective governments. The Commission shall appoint two additional members from the U.S. and Canada residing near the affected boundary waters. Committee chairs may appoint Engineering Advisors to assist them in their duties.
  - i. Whenever, in the opinion of the Water Levels Committee, the terms of the Order are not being complied with, the Water Levels Committee shall so inform dam owners and operators and make such recommendations as it considers appropriate. At the earliest opportunity, the Water Levels Committee shall report to the Commission directly such apparent lack of compliance with the Order, the circumstances under which it occurred, the action taken by the Board, and the action, if any, taken by or on behalf of the dam owners and operators and inform the Board through the Board Co-chairs.

- ii. Notwithstanding the provisions of the Order, the Water Levels Committee may, on behalf of the Commission:
  - 1. authorize the reduction of the outflow from Rainy Lake for periods of up to ten days if necessary to raise the headpond level at International Falls-Fort Frances to ensure an adequate water supply for plant fire protection purposes or to permit the passage of watercraft from the headpond to Rainy Lake, provided the outflow shall not be less than the flows prescribed in paragraph numbered 2(c) of the Order, and
  - 2. authorize the reduction of the outflow from Rainy Lake and/or Namakan Lake for periods of up to ten days if necessary to meet emergency conditions such as machinery breakdowns at the Kettle Falls or International Falls-Fort Frances dams, fires or other accidents, provided the outflow shall not be less than the flows prescribed respectively in paragraphs numbered 1(c) and 2(c) of the Order.
- iii. When the Water Levels Committee has taken action pursuant to subparagraph (ii) above, the Committee Co-chairs shall inform the Commission forthwith and as soon as practicable thereafter shall forward a written report to the Commission, describing the circumstances in which such action was taken. The report shall be posted on the IJC website following Commission approval.
- iv. When, in the opinion of the Water Levels Committee, conditions other than those indicated in subparagraph (ii) above, either exist or are likely to occur, which make it advisable to deviate temporarily from the strict application of the Order, the Board Co-chairs shall refer the matter to the Commission by the fastest practicable means, together with the Water Levels Committee's recommendation; the Commission will inform the Water Levels Committee of its decision as expeditiously as possible.
- v. The Water Levels Committee shall operate by consensus. In the event of any disagreement among the members of the Committee which they are

unable to resolve, the co-Chairs shall refer the matter forthwith to the Commission for decision.

- vi. The Water Levels Committee shall meet face-to-face with the operators of the dam at International Falls-Fort Frances annually to discuss water level issues that have occurred during the previous year and keep the Board informed of important issues discussed at the meeting.
- d. Keep the Commission informed of boundary waters aquatic conditions and plans, policies, and developments, actual or anticipated, which have the potential to affect the quantity and quality of the water and the health of the Lake of the Woods and Rainy River watershed boundary waters aquatic ecosystem.
- e. Maintain awareness of basin-wide developments and conditions which might affect water quantity and quality and ecosystem health, and the people living within the Lake of the Woods and Rainy River watershed, and recommend appropriate strategies to the Commission, if appropriate.
- f. Coordinate activities with appropriate agencies and institutions as may be needed or desirable, including inter-agency working groups and other research groups conducting sound science within the watershed, and consider designating specific Board members to liaise with specific groups where useful.
- g. Establish and maintain a Community Advisory Group (CAG) for the purpose of keeping the Board aware of any water resource management issues that may arise in the basin and providing feedback and input to the Board's products and processes, such as the Board's work plan. The Board shall appoint members to the CAG with a roughly equal number of Canadian/US Members with representation distributed throughout the basin and to reflect the diverse nature of the environment in which the Board operates. Membership shall typically be for a three-year term with possible extensions for additional terms. The Board shall appoint two co-chairs from among the public Board members, one from each country for a three-year rotating term. The CAG co-chairs shall be responsible for ensuring that all CAG members remain informed of issues and inquiries provided to the CAG for consideration and that Board co-chairs remain informed of the group's efforts and discussions. Board Secretaries shall provide logistical support to the CAG co-chairs as determined appropriate by the Board co-chairs in consultation with the CAG co-chairs. The

CAG membership includes the public members of the Board as well as the Board representatives from First Nations, Métis, and Tribes. The Board is not allowed to dismiss any members of the CAG prior to the end of their terms. Any membership to the CAG can be terminated by the Commission at any time.

- h. Establish and maintain an Industry Advisory Group (IAG) for the purpose of making the Board aware of industries' perspectives. Members shall reflect the range of industrial interests in the basin, such as hydroelectric power, paper production, agriculture, forestry, fisheries, mining, recreation and tourism. The Board shall appoint members after confirming willingness and interest to serve. The IAG co-chairs shall be drawn from the membership of the Board. The IAG co-chairs shall be responsible for ensuring that all IAG members remain informed of issues and inquiries provided to the IAG for consideration and that Board co-chairs remain informed of the group's efforts and discussions. The Board is not allowed to dismiss any members of the IAG prior to the end of their terms. Any membership to the IAG may be terminated by the Commission at any time.
- i. Board Secretaries shall provide logistical support to the IAG co-chairs as determined appropriate by the Board co-chairs in consultation with the IAG co-chairs.
- j. The Board shall organize a joint meeting of the Board with the CAG and IAG once a year. This may be a joint meeting of the Board, CAG and IAG or the Board may hold separate meetings with the CAG and with the IAG.
- k. Involve the public in the work of the Board; facilitate provision of timely and pertinent information on Board activities within the watershed in the most appropriate manner including electronic means, such as the Board's page on the Commission website. Meet publically at least once a year with invitations to First Nations, Métis, and Native Americans and all water users groups and stakeholders to seek advice and hear concerns, such as on a binational comprehensive basin water management plan or other issues. Locations of such meetings shall be moved around the basin, generally alternating between locations in Canada and the United States. To facilitate coordination and efficiency, the Board shall consider others' meetings when establishing its own face-to-face meetings.

1. Collaborate or carry out such other studies or activities as the Commission may, from time to time, request, including undertaking or facilitating the development of plans or studies, as may be assigned by the Commission and as resources permit. For example, collaborate on a binational comprehensive watershed management plan along with governmental agencies, facilitating Lake of the Woods watershed water quality studies, and state of the watershed reports or a long-term monitoring plan. Prepare an annual work plan including both routine board activities and new initiatives planned to be conducted in the subsequent year. The work plan shall be submitted annually to the Commission for review and approval.
- m. Submit a report covering Board activities annually to the Commission, at least three weeks in advance of the Commission's spring semi-annual meetings, and submit such other reports as the Commission may request or the Board may desire.

The Board shall consist of a United States Section and a Canadian Section, comprising often members from each country appointed by the Commission. The Commission shall ordinarily appoint each member to a three year term. Appointments may be renewed for additional terms. Members shall act in their personal and professional capacity, and not as representatives of their respective countries, agencies, or institutions. The Commission shall appoint one member from each Section to be chair of that Section, ordinarily for a term of three years, and will strive to appoint chairs with complementary expertise that encompasses a broad spectrum of watershed issues.

The Commission may appoint an alternate member to act in the place of such member whenever the said member, for any reason, is not available to act as a member of the Board.

The chairs of the two Sections shall be co-chairs of the Board and shall be responsible for maintaining proper liaison between: the Board and the Commission; the Water Levels Committee and the Board, and among the Board, CAG and IAG members.

Co-chairs shall ensure that all members of the Board are informed of all instructions, inquiries, and authorizations received from the Commission and also of activities undertaken by or on behalf of the Board, progress made, and any developments affecting such progress.



Co-chairs may appoint secretaries of the Board who, under the general supervision of the co-chairs, shall carry out such duties as are assigned by the co-chairs or the Board as a whole.

Unless other arrangements are made, members of the Board, committees, or working groups shall make their own arrangements for reimbursement of necessary expenditures for travel or other related expenses.

The Board co-chairs shall keep the Commission currently informed of the Board's plans and progress and of any developments or cost impediments, actual or anticipated, which are likely to impede, delay, or otherwise affect the carrying out of the Board's responsibilities.

The Board shall inform the Commission in advance of plans for any meetings, or other means of involving the public in Board outreach, and report to the Commission, in a timely manner, on these and any other presentations or representations made to the Board.

Commissioners and relevant Commission staff are invited to any meetings of the Board and the Water Levels Committee, and any committees the Board may establish.

The Board shall conduct its public outreach activities in accordance with the Commission's public information policies and Board members shall maintain files in accordance with the Commission policy on segregation of documents. All Board members shall be provided with these policy documents at the time of appointment to the Board.

Reports shall be submitted in a format suitable for public release, with electronic copies provided to each of the Commission's section offices. Reports shall normally be available only to the Commission and to members of the Board and its committees until their release has been approved by the Commission.

The Board shall provide minutes of Board meetings to the Commission within 45 days of the close of the meeting in keeping with the Commission's April 2002 Policy Concerning Public Access to Minutes of Meetings. The minutes will subsequently be put on the Commission's website.

The Board shall produce annual reports in a format suitable for public release (ideally via the

Board's page on the IJC website as well as via printed copy) and shall make annual reports available to the public upon request normally one week after formal receipt by the Commission at its Spring semi-annual meeting unless directed otherwise by the Commission.

The Board may submit additional reports to the Commission as necessary.

Prior to their release, the Board shall provide the text of media releases and other public information materials to the Secretaries of the Commission for review by the Commission's Public Information Officers.

If, in the opinion of the Board or of any member, any instruction, directive, or authorization received from the Commission lacks clarity or precision, the matter shall be referred promptly to the Commission for clarification.

The Board shall operate by consensus. In the event of any disagreement among the members of the Board which they are unable to resolve, the Board shall refer the matter forthwith to the Commission for decision.

Commission may amend existing instructions or issue new instructions to the Board at any time.

To be signed this   1st   day of April 2013.



Secretary  
United States Section



Secretary  
Canadian Section