



US Army Corps
of Engineers
North Central Division

GREAT LAKES LEVELS

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THE BINATIONAL APPROACH OF THE INTERNATIONAL JOINT COMMISSION

While most readers will be somewhat familiar with the International Joint Commission, many may not be aware of the full scope of its responsibilities. This article provides an overview of the commission's work and discusses the importance of participation by citizens, industry, research institutions, and others in its process.

The Binational Approach

At the end of the last century, it was clear that the development of the waterways along the border between Canada and the United States would require a great deal of cooperation. Following a number of discussions and interim arrangements, the Boundary Waters Treaty was signed in 1909. This document provided an enduring set of principles and mechanisms to help prevent and resolve disputes, primarily those concerning the water quantity and quality along the common boundary. One of these mechanisms was the International Joint Commission (IJC), a permanent binational organization to which the governments delegated a measured degree of authority and independent fact-finding and advisory responsibility.

The commission, with three members appointed by the President of the United States and three appointed by the Governor-in-Council in Canada, met for the first time in 1912. In contrast to bilateral processes the commissioners act as a single body seeking common solutions rather than as separate national delegates representing the positions

of their governments. With headquarters in Ottawa, Ontario, and Washington, D.C., each have a small group of advisers and other staff to assist the commission in fulfilling its treaty responsibilities. The Great Lakes Water Quality Agreement of 1972 added an additional office in Windsor, Ontario, staffed with personnel from both Canada and the United States. Experts from both countries serve on technical boards

studies or monitor compliance with commission decisions. Twenty boards, composed of equal numbers of U.S. and Canadian members, report to the commission at present. Most include members from Federal, state, and provincial agencies which have substantive expertise and responsibilities related to the natural resources in question.

For example, the U.S. Army Corps of Engineers personnel serve on 11 commission boards, with respon-

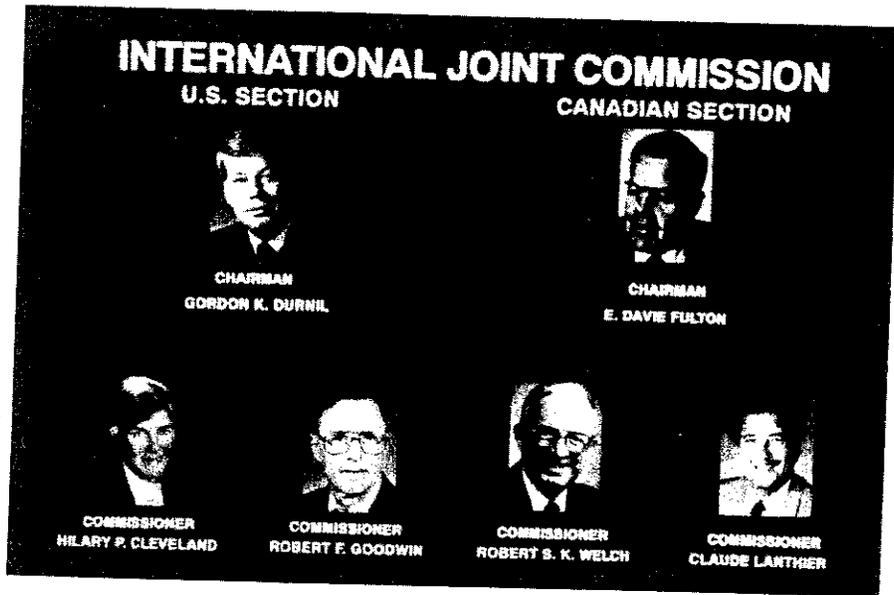


Figure 1. Current IJC Commissioners.

sibilities ranging from Kootenay Lake in British Columbia and Washington to the St. Croix River in New Brunswick and Maine.

Commission Responsibilities

In accordance with the Boundary Waters Treaty, the commission considers applications for certain uses, obstructions, or diversions of waters along the boundary affecting the natural levels or flows on the other side. Applications for 61 projects located from coast to coast have come before the commission over the years. After considering the potential impacts, the commission may require the applicant to undertake certain actions to protect any of the interests against possible injury resulting from the project. The commission often retains the authority to regulate the flow of water through projects it has approved. This is the case with the hydropower developments at the outlets of Lakes Superior and Ontario.

Under the treaty, the governments may also refer any questions or matters of difference arising between them to the commission for examination and report. The commission investigates the issues or monitors situations in accordance with the specific terms of the reference provided. Implementation of commission recommendations made under such references is at the discretion of the two governments.

To date, 51 references have come before the commission, most involving actions that affect water resources or air quality on the other side of the boundary. Commission investigations have provided the basis for cooperation between Canada and the United States on such contentious issues as the Garrison Diversion in North Dakota. Ongoing water quality monitoring under another commission reference contributed to the successful rehabilitation of the salmon fishery in the St. Croix River between Maine and New Brunswick.

Many references, including several related to the Great Lakes, have been based on the treaty commitment that waters shall not be polluted on either side of the boundary to the injury of health or property



Figure 2. Negotiations convened by the commission turned a dispute over a proposed hydropower project into an international effort to preserve the ecological and recreational values in the Skagit River Valley, British Columbia, and Washington. (credit: David LaRoche)

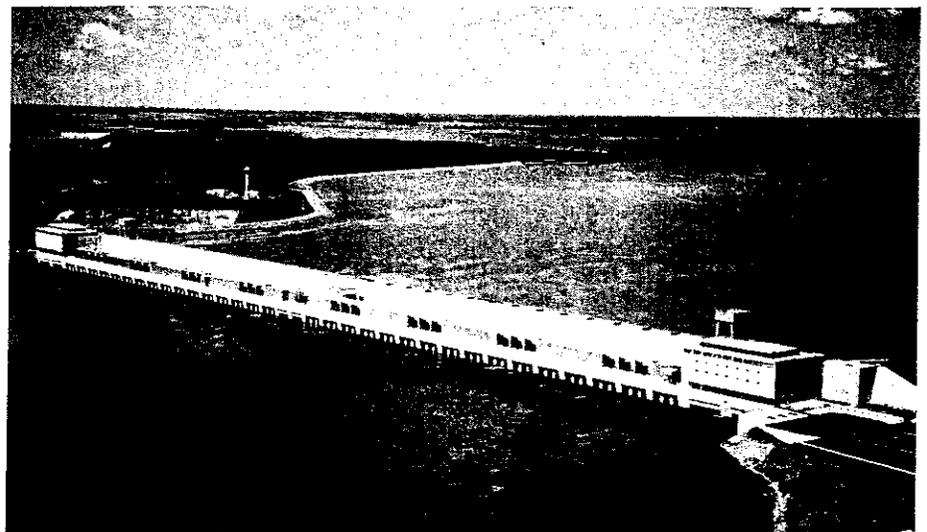


Figure 3. Water levels and flows in Lake Ontario and the St. Lawrence River are regulated in accordance with the commission's order of approval for the international hydropower project near Massena, New York, and Cornwall, Ontario.

on the other. The matter of Great Lakes pollution came before the commission in its first year, and its recommendations contributed to the elimination of waterborne disease epidemics in the Great Lakes basin. Many years later, commission recommendations from a subsequent study provided the basis for the 1972 Great Lakes Water Quality Agreement. The agreement gave the commission an ongoing reference to assess the progress toward achieving clean-up objectives and to provide advice on matters related to the quality of boundary waters of the Great Lakes-St. Lawrence River system. A new agreement, signed in 1978 and amended in 1987, included provisions to address the discharge of toxic substances and expanded the reporting role of the commission.

The governments also sought commission advice regarding water levels in the Great Lakes/St. Lawrence River system during extreme low water conditions in 1964, and in four separate references in 1977. One of the central questions was whether further regulation of water levels would be in the public interest. During the high water crisis in 1986, the commission was asked to review its previous lake regulation studies and to examine other methods of alleviating the adverse consequences of fluctuating water levels. The resulting study is currently in its second and final phase.

With regard to transboundary air pollution, commission findings under a 1928 reference helped resolve a dispute involving sulphur dioxide emissions from a smelter at Trail, British Columbia. Commission studies on various air pollution problems in the Detroit, Michigan-Windsor, Ontario, region were undertaken on four occasions beginning in 1949. Under one reference, the commission has an ongoing responsibility to alert governments to air pollution problems along the length of the boundary between the two countries. Finally, the Air Quality Agreement signed by governments in March 1991, among other things, asks the commission to seek public comment regarding the progress reports issued by the Governments' Bilateral Air Quality Committee.

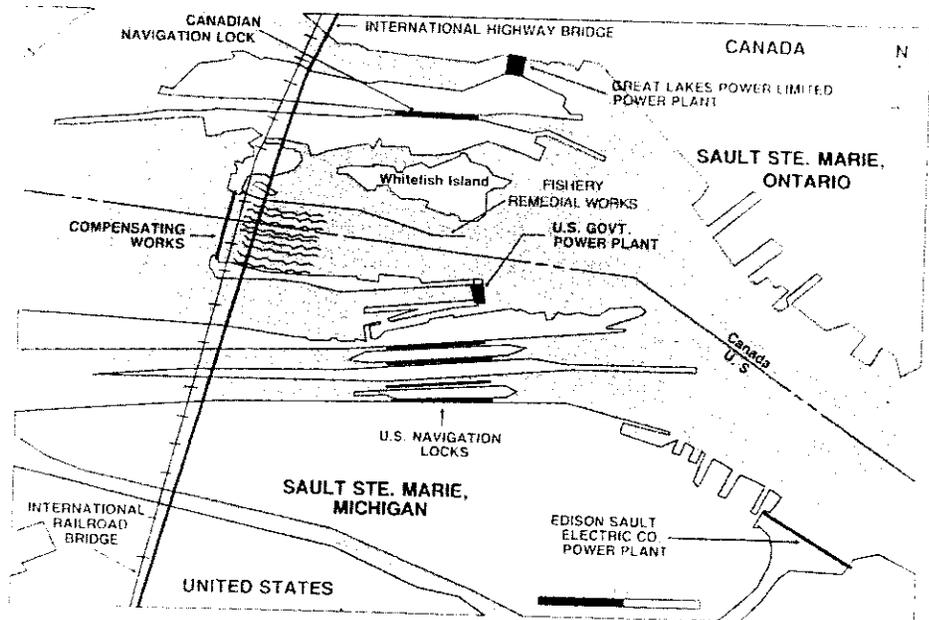


Figure 4. Water levels and flows in Lake Superior are regulated in accordance with the commission's order of approval.

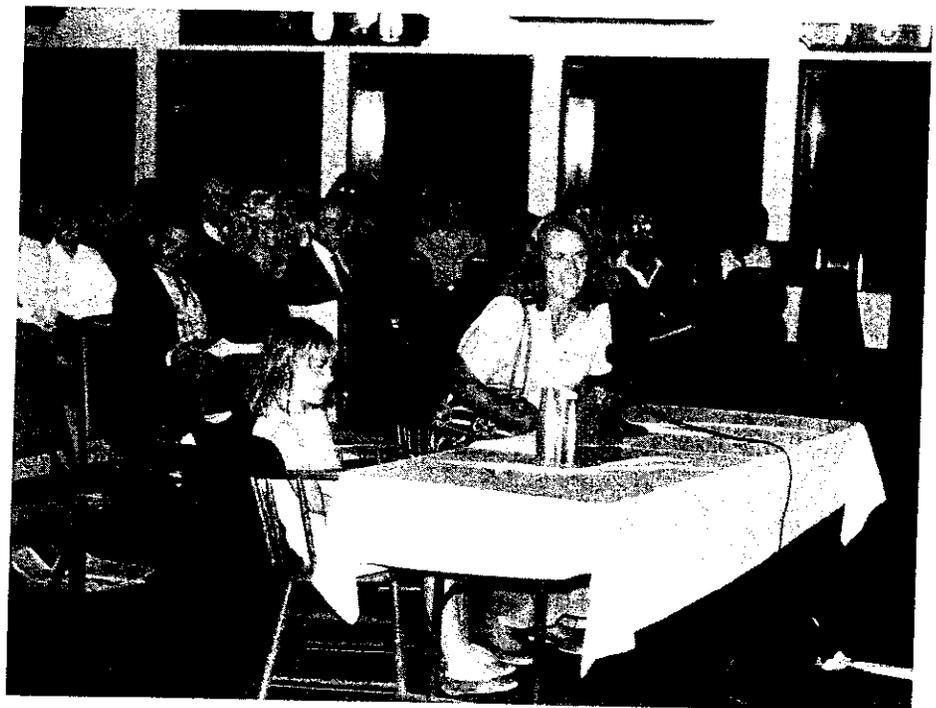


Figure 5. Public Meeting.

Table 1
Great Lakes Hydrology

PRECIPITATION								
BASIN	MAY				YEAR-TO-DATE			
	1991*	AVERAGE**	DIFF.	% OF AVERAGE	1991*	AVERAGE**	DIFF.	% OF AVERAGE
Superior	3.3	2.7	0.6	122	11.0	10.0	1.0	110
Michigan-Huron	3.6	3.0	0.6	120	13.3	11.5	1.8	116
Erie	4.0	3.2	0.8	125	14.6	13.4	1.2	109
Ontario	3.2	3.0	0.2	107	15.9	13.5	2.4	118
Great Lakes	3.5	2.9	0.6	121	13.1	11.5	1.6	114

LAKE	MAY WATER SUPPLIES		MAY OUTFLOW ²	
	CFS ¹	AVERAGE ³	CFS ¹	AVERAGE ³
Superior	179,000	186,000	76,000	75,000
Michigan-Huron	269,000	251,000	188,000	189,000
Erie	39,000	46,000	222,000	213,000
Ontario	57,000	60,000	306,000	257,000

* Estimated (inches) ** 1900-89 Average (inches)
 1 Cubic Feet Per Second 2 Does not include diversions 3 1900-89 Average (cfs)

For Great Lakes basin technical assistance or information, please contact one of the following Corps of Engineers District Offices:

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 Cdr, Buffalo District
 U.S. Army Corps
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 Buffalo, NY 14207-3199
 (716) 876-5454, Ext. 2201

For IL and IN:
 LTC Randall R. Inouye
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For MI, MN, and WI:
 Colonel Richard Kanda
 Cdr, Detroit District
 U.S. Army Corps of
 Engineers
 P.O. Box 1027
 Detroit, MI 48231-1027
 (313) 226-6440 or 6441

The Boundary Waters Treaty also provides for governments to refer matters to the commission for binding decision; but to date, this provision has not been used.

Participation in Commission Activities

The Boundary Waters Treaty provides that all interested parties shall be given convenient opportunity to be heard in commission proceedings, a commitment that was notable in 1909. Traditionally, formal public hearings have been held to meet this requirement. Since the commission is responsible for examining the relevant facts and may require that certain interests be protected, public hearings have provided a forum for raising considerations that should not be overlooked. While other forms of participation have become more widely used, public hearings have remained an important feature of commission proceedings. Convenient opportunity to be heard is also provided in formal gatherings. For example, the commission's Biennial Meeting on Great Lakes Water Quality is a major conference providing an opportunity for a public review of the advice to the commission and additional public input, before the commission prepares its report on progress under the agreement.

Annual public meetings have been hosted for the past 26 years by the commission's International Rainy Lake Board of Control. These elicit discussion of conditions in the watershed and the concerns of the interested parties, such as cottage owners, outfitters, native peoples, and industry. As such meetings have proved useful in maintaining communications between the board and the community, the commission has encouraged other boards to hold similar meetings. Some commission boards, such as the Great Lakes Science Advisory Board, hold their regular meetings at various locations in the region and dedicate time for discussion with members of the local community. Public meetings have also been scheduled this summer by the International St. Lawrence River Board of Control, the International Niagara Board of Control, and the

International Lake Superior Board of Control (see following announcement for details).

Participants on commission boards generally include officials from the Federal, state, and provincial agencies who are most knowledgeable about a particular issue and whose organizations can provide the technical and financial support for commission investigations. Board members are asked to provide their best personal and professional advice rather than serve as representatives of their organizations, a mode of operation that often produces agreement on the facts more readily than adversarial processes. However, more direct participation in the board process by individuals from citizen organizations, local governments, industries, university researchers, and other interested parties has been increasing, in part, to broaden the base of expertise and perspective used in developing advice to the commission.

Some of the early efforts to involve interested parties in the board process were ambitious in scope, but more limited in the duration and extent of actual involvement. For example, 17 public consultation panels, involving more than 200 individuals from Great Lakes communities, were convened in 1977, near the end of the Pollution from Land Use Activities Study to make recommendations on the environmental, social, and economic aspects of alternatives that had already been identified and to comment on the draft final report. The trend in recent years has been for interested individuals to serve on advisory bodies or directly on board committees to contribute earlier in the process of developing advice.

Some participation efforts are primarily intended to broaden the scope of perspectives and advice the commission receives, such as the series of roundtable discussions related to achieving zero discharge of persistent toxic substances in the Great Lakes basin ecosystem. In other cases, it is important that other sectors of the community take ownership in the process rather than expecting the government to provide the entire solution. As part of the

remedial action plan process, governments are being encouraged to involve interested parties in developing plans to cleanup the severely polluted Great Lakes areas of concern.

Giving people a meaningful opportunity to be heard assumes that there is access to the information under consideration. Satellite technology was used to assist in this regard during Phase I of the present study of fluctuating water levels in the Great Lakes-St. Lawrence River basin. In two television conferences, people from around the basin could interact with study personnel and also hear the concerns of people in other parts of the basin. A separate television conference about Great Lakes education was held pursuant to responsibilities under the Great Lakes Water Quality Agreement.

Phase II of the study has broken new ground in the amount of direct ongoing involvement. People from the various interests affected by water levels have been appointed to study groups, including 4 who serve on the 11-member study board. In addition, members of the standing Citizens Advisory Committee serve as full members on the study working committees. Portions of all board meetings have been reserved for interaction with people from the local community, and the affected interests are being invited to participate in the information gathering workshops. A public session will be held in Traverse City, Michigan, on September 30, 1991 (more details in future updates). The objectives for such extensive involvement range from increasing the scope of concerns under consideration to addressing lack of trust in any process which does not appear sufficiently open.

While participation by interested parties has always been an important part of the commission process, the nature and scope of this participation have changed dramatically over the years. Determining the level of participation that is appropriate and most effective under different circumstances presents an ongoing challenge. However, North American citizens are demanding greater participation in decisions taken by public bodies. Therefore, it

is virtually certain that the importance of participation in the commission process will continue to become more extensive and diverse. Individuals wishing to know more about the IJC may contact them directly at the following address:

International Joint Commission
2001 S Street, N.W., 2d Floor
Washington, D.C. 20440

In the spirit of public participation, the Levels Reference Study Board conducted a public meeting on May 22, in Alexandria Bay, New York. About 40 U.S. and Canadian citizens were briefed on the study's process and on regulation of flows in the St. Lawrence River. The meeting was then opened to the public for questions, comments, and statements.

The next meeting with the public by the the International St. Lawrence River Board of Control will be on June 27th. The meeting will take place in the Kingston, Ontario, city hall, located at 216 Ontario Street. It will begin at 7:30 p.m. in the Memorial Hall on the 2d floor. Following several briefings by the board, the meeting will be opened to the public for its input to the board.

Great Lakes Basin Hydrology

The level conditions on the lakes are shown in graphical and tabular form in the bulletin. This includes a plot of actual levels and period of record (1900-1990), maximum, minimum, and average levels for the past 1-2 years; a forecast plot for the next 6 months; a table of the past month's actual level; in both graphical and tabular form for comparison purposes.

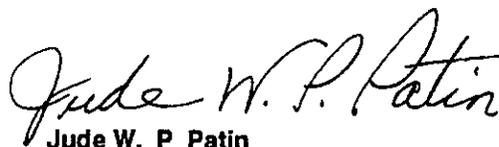
The precipitation, water supplies, and outflows for the lakes are provided in Table 1. For the precipitation, this includes the actual for the past month and year-to-date, as well as a comparison to long-term average. The water supplies and outflow shown are the actuals for the

past month and a comparison to the long-term average.

Board Meetings with Public

The International Niagara Board of Control will meet with the public on September 12, 1991, in Fort Erie, Ontario.

The International Lake Superior Board of Control will meet with the public on September 17, 1991, in Sault Ste. Marie, Ontario. Further details on these latter two meetings will be provided in future updates.



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