

## INTERNATIONAL JOINT COMMISSION

In the Matter of Emergency Regulation of the Level of Rainy Lake and of other Boundary Waters in the Rainy Lake Watershed.

### Supplementary Order

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

#### **WHEREAS:**

A Convention between the United States of America and Canada providing for emergency regulation of the level of Rainy Lake and of the level of other Boundary Waters in the Rainy Lake watershed was signed at Ottawa on 15 September 1938 and was duly ratified;

Pursuant to the said Convention the Commission, by Order Prescribing Method of Regulating the Levels of Boundary Waters dated 8 June 1949, determined when emergency conditions exist in the Rainy Lake watershed and adopted certain measures of control with respect to the dams at Kettle Falls and International Falls - Fort Frances in order to prevent the occurrence of such emergency conditions;

The Commission specifically reserved the right to amend or rescind its Order of 8 June 1949 at any time and to issue such supplementary or other Orders as it might deem to be in the public interest;

The Commission, by Supplementary Order dated 1 October 1957, amended its Order of 8 June 1949 to permit greater flexibility in the regulation of the level of Namakan Lake, the amendment to terminate 30 September 1962 unless the Commission continued it in force beyond that date;

The Commission, after affording opportunity for the interested parties to be heard and deeming such action to be in the public interest, extended the termination date of the 1 October 1957 amendment on two occasions;

The Commission, by Supplementary Order dated 29 July 1970, further amended its Order of 8 June 1949, based on experience which demonstrated the difficulties of operating the outlet works so as to ensure that lake levels will be at precise elevations on certain dates and to further qualify the Commission's determination of "emergency conditions" within the meaning of the Convention signed on 15 September 1938;

An ad hoc group of American and Canadian citizens, known as the Rainy-Namakan Water Level International Steering Committee, submitted a proposal to the Commission in November 1993 suggesting changes to water level and flow operations defined in the Commission's 8 June 1949 Order, as amended by the two Supplementary Orders dated 1 October 1957 and 29 July 1970.

Boise Cascade Corporation and Boise Cascade Canada Limited, the then-owners and operators of the dams governed by the Commission's Order, submitted to the Commission in February 1994 a Statement in Response to the 1993 International Steering Committee proposal.

After holding a public hearing on November 10, 1994, in International Falls, Minnesota, to consider what action it should take under the Rainy Lake Convention in response to the Steering Committee proposal, the Commission in 1995 asked its International Rainy Lake Board of Control to develop a Plan of Study for reviewing its 8 June 1949 Order, as amended by the two Supplementary Orders dated 1 October 1957 and 29 July 1970. The Plan of Study was approved by the Commission on February 1, 1996.

The International Rainy Lake Board of Control conducted the studies described in the Plan of Study and submitted a draft Final Report to the Commission on April 28, 1999. Following a public hearing held by the Commission on July 7, 1999, in Fort Frances, Ontario, to receive comments on the April 28, 1999, draft Final Report, the Board submitted its Final Report to the Commission on October 26, 1999.

On November 29, 1999, the Commission issued a notice of intent that invited public comments on a draft Supplementary Order for Rainy and Namakan Lakes water levels and outflows. The notice also stated the Commission's intention to issue an Order based on this draft on January 6, 2000, if no new and compelling concerns were received by the Commission by January 4, 2000. The draft Supplementary Order was based on option B, the recommended option in the International Rainy Lake Board of Control's Final Report. The draft Supplementary Order provides for the Commission to continue to carry out its responsibilities under the 1938 Convention for avoiding emergency conditions by instituting rule curves and other requirements which provide a careful balance between upstream and downstream concerns, and among the various interests, including environmental concerns, hydropower, flood risk, and boating. The draft Supplementary Order also takes into account improvements to water quality in the Rainy River that allow lower discharges under low-flow conditions than were previously desirable.

The Commission has determined that some variation in the regulated levels may be desirable from year to year, within defined rule curve bands.

The Commission understands that monitoring programs will be implemented by the resource management agencies to enable the impacts of the new rule curves on the biological and aquatic communities to be identified, and to provide an adequate source of information for future reviews.

The Commission has been informed that, although the dams in the United States at Kettle Falls and International Falls are still owned and operated by Boise Cascade Corporation, the dams in Canada at Kettle Falls and Fort Frances are now owned and operated by Abitibi-Consolidated Inc.

**NOW THEREFORE THIS COMMISSION ORDERS AND DIRECTS THAT:**

The Order Prescribing Method of Regulating the Levels of Boundary Waters, dated 8 June 1949, as amended by the two Supplementary Orders dated 1 October 1957 and 29 July 1970, is hereby amended by:

1. deleting subparagraph 1(a), and substituting therefore the following (changes in italics):  
"1.(a) The Companies, their successors or assigns shall operate the discharge facilities at the Kettle Falls Dams as authorized by the International Rainy Lake Board of Control in

such manner that insofar as possible the level of Namakan Lake, unaffected by wind or currents, will be between the following minimum and maximum elevations on the dates shown or between elevations which can be interpolated therefrom between these dates, these elevations *being above mean sea level. Furthermore, the companies, their successors or assigns shall normally target the middle portion of the band so described and shall keep the International Rainy Lake Board of Control informed in advance of their intended actions. The International Rainy Lake Board of Control shall monitor hydrologic conditions and the Companies' actions and may provide the Companies with directions for the operation of their discharge facilities. The Companies shall carry out any instructions provided by the International Rainy Lake Board of Control, which may from time to time include instructions to target levels elsewhere in the band.*

**Namakan Lake Elevations**

<u>Date</u>	<u>Minimum</u>		<u>Maximum</u>	
	<u>(meters)</u>	<u>(feet)</u>	<u>(meters)</u>	<u>(feet)</u>
1 Jan	339.70	1114.5	340.00	1115.5
1 April	338.95	1112.0	339.70	1114.5
15 April	338.95	1112.0		
1 June			340.95	1118.6
7 June	340.70	1117.8		
1 Sept	340.45	1117.0	340.65	1117.6
1 Oct	340.45	1117.0	340.65	1117.6

2. deleting subparagraph 1(c), and substituting therefore the following (changes in italics):  
 “1.(c) Whenever the level of Namakan Lake is lower than the minimum elevations prescribed in *sub-paragraph (a), the total outflow from the Namakan Chain of Lakes into Rainy Lake shall be reduced to 30 m<sup>3</sup>/s (1060 cfs) instantaneous; furthermore, whenever the level of Namakan Lake is lower than the drought line prescribed below, as may occur during periods of deficient inflow, the total outflow from Namakan Chain of Lakes may be further reduced, at the discretion of the International Rainy Lake Board of Control following appropriate consultations with resource agencies and affected municipalities and others, to not less than 15 m<sup>3</sup>/s (530 cfs) instantaneous.*”

**Namakan Drought Line**

<u>Date</u>	<u>Elevation (m)</u>	<u>Elevation (ft)</u>
1 Jan	338.95	1112.0
30 June	338.95	1112.0
1 July	340.15	1116.0
30 Sept	340.15	1116.0
1 Oct	338.95	1112.0

3. deleting subparagraph 2(a), and substituting therefore the following (changes in italics):  
 “2.(a) The Companies, their successors or assigns shall operate the discharge facilities at the International Falls-Fort Frances Dam as authorized by the International Rainy Lake Board of Control in such manner that insofar as possible the level of Rainy Lake,

unaffected by wind or currents, will be between the following minimum and maximum elevations on the dates shown or between elevations which can be interpolated therefrom between these dates, these elevations *being above mean sea level*.

*Furthermore, the companies, their successors or assigns shall normally target the middle portion of the band so described and shall keep the International Rainy Lake Board of Control informed in advance of their intended actions. The International Rainy Lake Board of Control shall monitor hydrologic conditions and the Companies' actions and may provide the Companies with directions for the operation of their discharge facilities. The Companies shall carry out any instructions provided by the International Rainy Lake Board of Control, which may from time to time include instructions to target levels elsewhere in the band.*

#### **Rainy Lake Elevations**

<u>Date</u>	<u>Minimum</u>		<u>Maximum</u>	
	<u>(meters)</u>	<u>(feet)</u>	<u>(meters)</u>	<u>(feet)</u>
1 Jan	337.20	1106.3	337.45	1107.1
1 April	336.70	1104.7	337.00	1105.6
1 May	336.80	1105.0	337.40	1107.0
1 June	337.30	1106.6	337.60	1107.6
1 July	337.50	1107.3	337.75	1108.1
15 Aug	337.50	1107.3	337.75	1108.1
1 Dec	337.30	1106.6	337.60	1107.6

4. deleting subparagraph 2(c), and substituting therefore the following (changes in italics):  
 “2.(c) Whenever the level of Rainy Lake is lower than the minimum elevations prescribed in sub-paragraph (a), the outflow from the dam at International Falls-Fort Frances shall be reduced to 100 m<sup>3</sup>/s (3530 cfs) instantaneous; furthermore, whenever the level of Rainy Lake is lower than the drought line prescribed below, as may occur during periods of deficient inflow, the outflow from the dam at International Falls-Fort Frances may be further reduced at the discretion of the International Rainy Lake Board of Control following appropriate consultations with resource agencies and affected municipalities and others, to not less than 65 m<sup>3</sup>/s (2300 cfs) instantaneous. If outflows are so further reduced at the discretion of the Board, the Companies shall monitor dissolved oxygen levels as the Board may require.

#### **Rainy Lake Drought Line**


<u>Date</u>	<u>Elevation (m)</u>	<u>Elevation (ft)</u>
1 Jan	336.90	1105.3
1 April	336.70	1104.7
30 June	336.70	1104.7
1 July	337.20	1106.3
24 Oct	337.20	1106.3

5. deleting sub-paragraph 2.(d), and renumbering paragraph 2.(e) to 2.(d);  
 6. deleting paragraph 4 of the 29 July 1970 Supplementary Order and adding the following

(changes in italics):

4. All obligations imposed in the said Order dated 8 June 1949, as amended by the *Supplementary Orders dated 1 October 1957 and 29 July 1970 and by this Supplementary Order*, upon the Companies, their successors or assigns apply jointly and severally to Boise Cascade Corporation *and Abitibi-Consolidated Inc. and their successors or assigns.*
7. adding paragraph 5, as follows:
  5. This Order shall be subject to review 15 years following its adoption, or as otherwise determined by the Commission. The review shall, at minimum, consider monitoring information collected by natural resource management agencies and others during the interim that may indicate the effect of the changes contained in this Supplementary Order.
8. adding paragraph 6, as follows:
  6. In the event of any conflict regarding English and metric units given in this Supplementary Order, metric units shall prevail.
9. adding paragraph 7, as follows:
  7. Figure 1 provides an illustration of the requirements of this Supplementary Order.

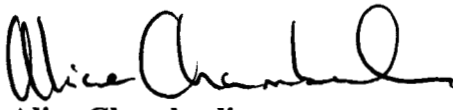
Signed this 5<sup>th</sup> day of January, 2000.

  
**Thomas L. Baldini**  
United States Chairman

  
**Leonard Legault**  
Canadian Chairman

  
**Susan B. Bayh**  
Commissioner

  
**Francis Murphy**  
Commissioner

  
**Alice Chamberlin**  
Commissioner

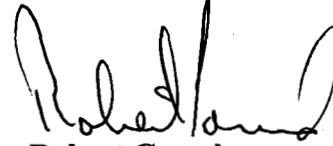
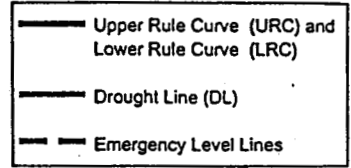
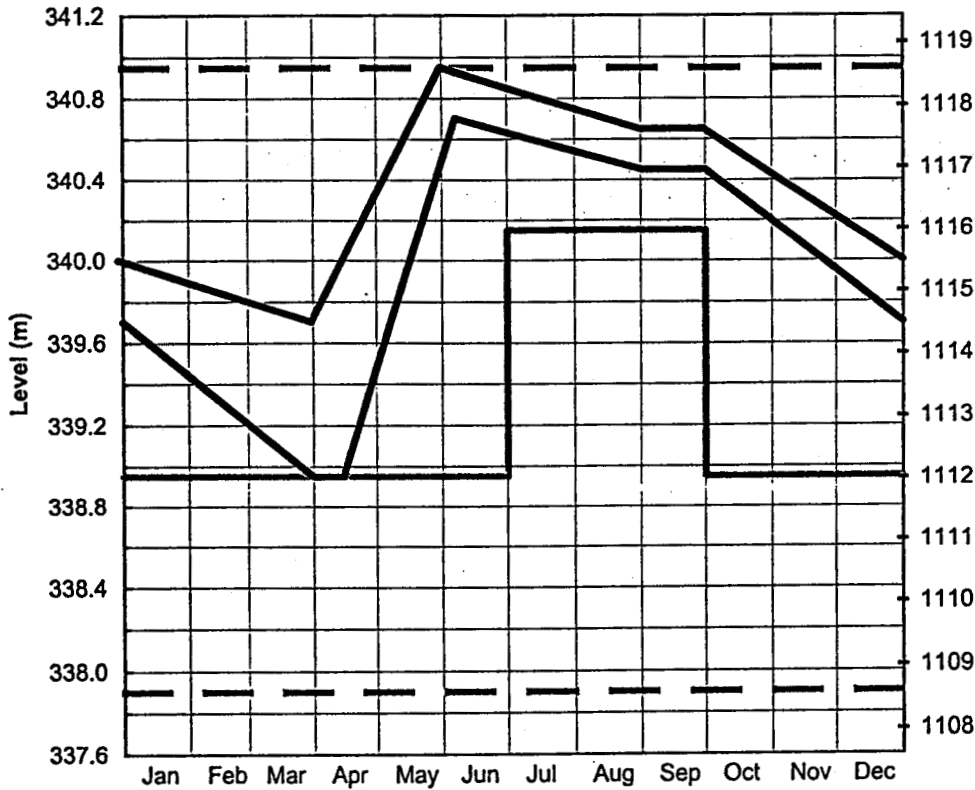
  
**Robert Gourd**  
Commissioner

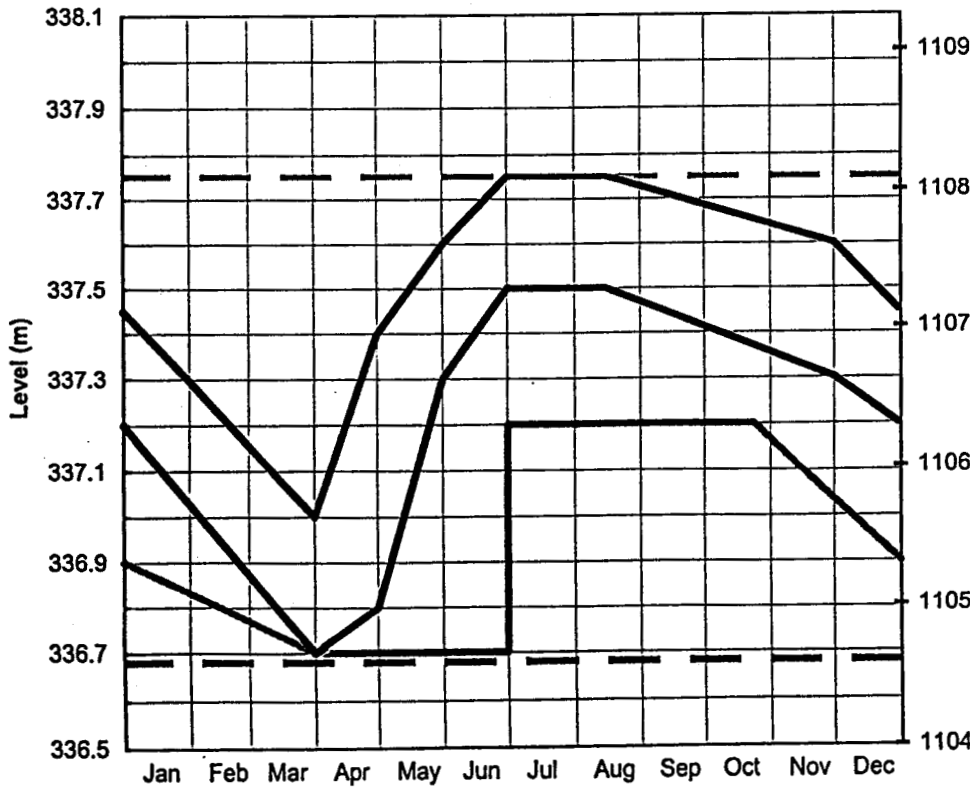
Figure 1

Namakan Lake



Date	DL	LRC	URC
Jan 01	338.95	339.70	340.00
Apr 01		338.95	339.70
Apr 15		338.95	
Jun 01			340.95
Jun 07		340.70	
Jun 30	338.95		
Jul 01	340.15		
Sep 01		340.45	340.65
Sep 30	340.15		
Oct 01	338.95	340.45	340.65

Rainy Lake



Date	DL	LRC	URC
Jan 01	336.90	337.20	337.45
Apr 01	336.70	336.70	337.00
May 01		336.80	337.40
Jun 01		337.30	337.60
Jun 30	336.70		
Jul 01	337.20	337.50	337.75
Aug 15		337.50	337.75
Oct 24	337.20		
Dec 01		337.30	337.60