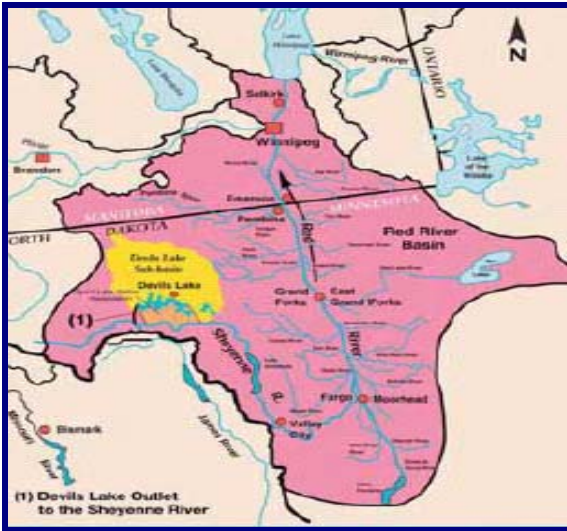


## DEVILS LAKE OUTLET

**“We urge you to promptly refer this matter to the International Joint Commission for such an independent analysis, and to ensure that construction activity is halted until such time that the analysis is completed. Such an action is not only appropriate from an environmental and economic standpoint, but is in the best interest of strengthening and maintaining positive relations with our Canadian neighbors.”**

**Thomas E. Huntley, Ph.D.**  
Chair, Great Lakes Commission; January 21, 2005



### A Controversial Project for Both Sides of the Border

North Dakota's outlet from Devils Lake is cause for concern for several states, notably Minnesota, Missouri, members of the Great Lakes Commission, and others that share water resources with Canada. The state plans to start operating the outlet in June 2005 without an environmental assessment or appropriate safeguards. The outlet will divert poor quality water downstream from Devils Lake into the Sheyenne and Red Rivers, risking the transfer of invasive species and polluted water to Minnesota and the Canadian province of Manitoba. Once this happens, the negative effects will be irreversible. The project also risks violating the longstanding *Boundary Waters Treaty of 1909*.

### Ecological and Economic Impacts

Awareness of and opposition to the Devils Lake outlet is growing. Many realize the costly and irreversible effects of diverting Devils Lake water. These environmental and economic impacts will be borne by downstream communities, especially around Lake Winnipeg, which is the world's 10<sup>th</sup> largest freshwater body of water. If implemented, the project will set a negative and far-reaching precedent that will be felt by **all** communities that rely on transboundary waters.

Devils Lake is a closed basin in North Dakota. It has no natural outlet and has been isolated from the Hudson Bay drainage basin for over 1000 years. The quality of Devils Lake water is poor, containing high levels of mercury, arsenic, sulfates, phosphorus, boron, and dissolved solids. Devils Lake may also contain invasive species such as striped bass, fish pathogens, invertebrates, and aquatic species not found downstream in the Sheyenne River, Red River, or Lake Winnipeg. The introduction of these invasive species threatens the multi-million dollar fishing and tourism industries of North Dakota's neighbors, as well as the subsistence fisheries of several native communities.

### Threat to *The Boundary Waters Treaty*

The Devils Lake outlet threatens the spirit and intent of the *Boundary Waters Treaty of 1909*, signed by the U.S. and Canada to protect water resources on either side of the border:

*"...waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other."*  
(Article IV, *Boundary Waters Treaty of 1909*)

**A violation of the *Boundary Waters Treaty* will set a negative precedent for future water projects in both countries.**

To date, the *Boundary Waters Treaty* has proven extremely valuable to both countries. The independent, bi-national International Joint Commission (IJC) was established by the *Treaty* to provide the principles and mechanisms to help resolve disputes and prevent future ones, primarily those concerning water quantity and quality along the boundary between the U.S. and Canada. Preserving the integrity of the *Boundary Waters Treaty* is critical to both countries.

## Canada's Request for a Reference to the International Joint Commission

The Government of Canada, with considerable support from several U.S. legislators, including Senators and Governors, requests that North Dakota's Devils Lake project be jointly referred by both the U.S. and Canada to the International Joint Commission (IJC) for an independent review, and that construction of the outlet cease until the parties have reviewed the IJC's findings.

Canada is concerned that an outlet constructed without an environmental assessment and safeguards to protect against the transfer of invasive species or water pollution will pose a direct threat to Manitoba's environment and to the credibility of the *Boundary Waters Treaty*. Minnesota, Missouri, Manitoba, Ontario, Quebec, and the Great Lakes Commission, along with environmental and citizen groups, and several Native American communities, also strongly support Canada's request for an IJC reference.

The current position of the U.S. Government, that damage must occur before a violation of the *Treaty* can be determined, is contrary to U.S. and Canadian environmental policy and international practice.

### A PATH FORWARD: Canada's Plan of Action

#### A Joint Reference to the International Joint Commission

To answer concerns about the environmental aspects of the Devils Lake outlet, and to protect the integrity of the *Boundary Waters Treaty*, Canada requests that North Dakota's Devils Lake outlet project be jointly referred to the IJC for an independent review.

#### Cease Construction of the Outlet

The Devils Lake outlet must not become operational until both the U.S. and Canadian governments have had an opportunity to review the IJC's recommendations.

#### Abide by the IJC's Recommendations

Canada and Manitoba will abide by the recommendations of the IJC.

#### A Timely Review

If properly funded and started within this field research season, the IJC could carry out a reference on the North Dakota state-funded outlet within one year.

## HARD FACTS

**Canada Did Not Reject a Reference to the International Joint Commission:** The U.S. has never proposed that the *state* outlet be referred to the IJC. Canada has consistently and repeatedly supported a reference to the IJC on Devils Lake issues. For the past year Canada has sought U.S. agreement on a joint reference for the North Dakota outlet project.

**Water Pollution and Invasive Species Will Harm Downstream Communities:** Devils Lake water is deemed too polluted to irrigate farmland and contains high levels of mercury, arsenic, sulfates, phosphorus, boron, and dissolved solids. These harmful pollutants will spread from Devils Lake, affecting the quality of Minnesota and Manitoba's shared waters. Devils Lake may also contain invasive species, including fish pathogens, which could be transferred through the outlet to downstream waters and into Hudson's Bay.

**Will Set a Negative Precedent for the *Boundary Waters Treaty*:** The *Treaty* has guided Canada and the U.S. in the management of shared waters for nearly a century. To allow North Dakota's outlet to proceed without IJC oversight will set a precedent for other states and provinces, making it easier to avoid proper environmental assessments of transboundary water projects.

**“What leverage will either government have in the future if a state or province wants to proceed with a transboundary water project, citing Devils Lake as an excuse to avoid the inconvenience of proper environmental assessment?”**

- Official Statement to the IJC,  
Canadian Embassy, Washington D.C.  
April 14, 2005