



Issue #2

The Devils Lake Outlet Project

Information current as of: July 2005

Summary and Current Status:

The Devils Lake outlet is a US\$28 million project to pump excess water from Devils Lake into the Sheyenne River, which flows into the Red River, across the border into Canada, and then to Lake Winnipeg and Hudson's Bay. The Devils Lake outlet is set to become operational August 1, 2005.

Elements:

What is Happening to Devils Lake?

Devils Lake is a closed sub-basin lake in North Dakota that has been isolated from the Hudson Bay drainage basin for over 1,200 years. As it has no natural inlet or outlet, since glaciation, Devils Lake has naturally fluctuated from dry to overflowing.

The lake is polluted (too polluted to irrigate surrounding farmland), and persistent rains have swelled it to almost triple its original size, flooding surrounding areas. Since 1993, the lake has risen 26 feet and inundated approximately 90,000 acres of land. The cost of damages over the past decade is estimated at US\$500 million.

If it exceeds a certain water level, Devils Lake will spill into Stump Lake. The North Dakota State Water Commission predicts this to happen within the next two years. However, the U.S. Geological Survey web site indicates, the most recent calculations show there is less than a 0.2 % chance Devils Lake water levels would overflow naturally into the Sheyenne River between now and the year 2045.

If Stump Lake rises to the same elevation as Devils Lake, both lakes will rise. If the 'combined' lakes overflow, they will spill into the Sheyenne and Red Rivers. This has occurred twice in the last 4,000 years.

Contributions to the increased water levels in the Devils Lake include: 22,700 drains in the upper Devils Lake basin built over the years routing water to the lake, the disappearance of wetlands which act as natural drains, and unusually high levels of precipitation. In contrast, the restoration of upper basin wetlands could increase evaporation naturally and remove 30 inches of water a year,

reducing run-off to the lake. Other options include closing some of 22,700 drains as they speed water into Devils Lake.

The Devils Lake outlet is being built with no Environmental Impact Assessment having been carried out by the State of North Dakota. The State of North Dakota contends that in the absence of a federal interest (no federal funds required, no federal permits required), the state has no obligation under the National Environmental Policy Act (NEPA) to carry out an Environmental Impact Statement (EIS). Manitoba, Canada and numerous US interests have called for a full EIS for the outlet project.

The Manitoba government is of the view that the choice of an artificial outlet as the preferred alternative to relieve flooding from Devils Lake is not acceptable when other measures have been identified as being more effective, less costly, and environmentally superior. Upper basin water storage and irrigation have yet to be fully considered. However, the Government of Manitoba has committed to abide by any ruling of the International Joint Commission (IJC), an independent, non-partisan, bi-national body that prevents and resolves cross-border disputes regarding water quality and use and advises Canada and the US. The IJC only reviews a project if there is a joint request for its services. The US has not agreed to refer the matter to the IJC.

Potential impacts of the Devils Lake outlet:

- increase in dissolved salts in Red River – currently Devils Lake has high saline levels and excessive salinity can cause plant and fish to die off in Manitoba
- increase in pollutants –
 - suspended sediments, nutrients, trace elements and pesticides;
 - sulphate, phosphate, mercury, boron and arsenic are also present in Devils Lake, and no research has been conducted to predict impact of these pollutants on water quality when the State of North Dakota diverts this water.
- introduction of non-native biota¹ -
 - Devils Lake contains plants and animals not found in the Red River and Hudson Bay drainage basin. There are concerns Lake Winnipeg's commercial fishery and ecosystem might be harmed if non-native and/or invasive species enter Manitoba's waters;
 - competition of invasive species with native species and introduction of new parasites, new diseases or new, more efficient predators

The Big Picture on Devils Lake Boundary Waters Treaty

The Boundary Waters Treaty of 1909 between Canada and the USA provides the principles and mechanisms to help resolve and prevent disputes concerning

¹ There is also a plan in existence to create an inlet to Devils Lake. This would bring waters from the Missouri drainage basin into the Red River and Hudson Bay drainage basins and is cause for additional concern in terms of non-native and/or invasive species.

Manitoba Water Issues

Manitoba Wildlands – July 2005

water quantity and water quality along the Canada / US boundary. It provides equal protection to both countries and bars each from polluting shared waters that would harm property or health. The Treaty's International Joint Commission, is an impartial dispute-resolution body.

North Dakota opposes a referral to the IJC on the grounds that their own environmental review was adequate and immediate action is imperative.

Some groups have voiced the larger concern about the reticence of North Dakota and the federal US government to agree at this stage, to an IJC referral and to respect the provisions of the Boundary Waters Treaty. If North Dakota transfers even a small amount of water into the Sheyenne River, its ability to violate the Boundary Waters Treaty without consequence would show the US is not firmly committed to that treaty, and is willing to act unilaterally when it comes to transboundary resource issues.

Support for Manitoba's Efforts to Refer Devils Lake to the IJC

Various state and provincial governments, environmental and First Nations groups, and the Canadian federal government have all stated their opposition to the Devils Lake outlet project, and their support for a referral to the IJC. At the end of May 2005, Mayors on both sides of the Canada-US border voiced their support for Manitoba's efforts to refer the Devils Lake outlet project to the IJC for review.

At the federal level in Canada, the House of Commons Standing Committee on Environment and Sustainable Development adopted an all-party resolution on June 14, 2005 that calls on the Canadian government to act decisively to stop the US water diversion project from imperiling Canadian ecosystems and to exhaust "all diplomatic and/or legal options" to stop the Devils Lake diversion until it has been reviewed by the IJC.

Key Publication(s) & Links:

- Government of Manitoba, Department of Water Stewardship web page on Devils Lake
http://www.gov.mb.ca/waterstewardship/water_info/transboundary/devilslake.html
- *Protecting Our Water* – Manitoba Water Stewardship brochure on Devils Lake and the IJC
<http://www.gov.mb.ca/waterstewardship/pdf/devilslakebro.pdf>
- June 14, 2005 House of Commons press release (Standing Committee on Environment and Sustainable Development)
<http://www.parl.gc.ca/committee/CommitteePublication.aspx?COM=8976&SourceId=120831>
- Resolution ENV (38-1) of the House of Commons Standing Committee on Environment and Sustainable Development

Manitoba Water Issues

Manitoba Wildlands – July 2005

<http://www.parl.gc.ca/committee/CommitteePublication.aspx?SourceId=120911>

- North Dakota State Water Commission web page – Devils Lake
<http://www.swc.state.nd.us/projects/deviislake.html>
- Devils Lake Water Outlet site
<http://www.geocities.com/deviislake05/>
- Friends of the Earth – Take Action to Stop the Devils Lake Outlet
<http://www.foecanada.org/index.php?option=content&task=view&id=84&Itemid=72>
- Manitoba Wildlands news items about Devils Lake
http://www.manitobawildlands.org/archives_search_results.asp

For further information, contact:

Manitoba Water Stewardship – Main Office

Box 11, 200 Saulteaux Crescent,

Winnipeg MB R3J 3W3

Ph: 1-866-626-4862 (toll-free) or (204) 945-6398

email: wsd@gov.mb.ca

Honourable Steve Ashton, Minister of Water Stewardship

Room 314 Legislative Building, 450 Broadway

Winnipeg, MB R3C 0V8

Ph: (204) 945-1133 Fax: (204) 948-2684

e-mail: minwst@leg.gov.mb.ca