

August 2024

Guidance for Public Participation on the International Kootenay Lake Board of Control

The purpose of this document is to provide general guidance to public members on public participation with the International Kootenay Lake Board of Control (IKLBC).

1. Mandate

On November 11, 1938, the IJC granted an [Order of Approval](#) to permit the operators of Corra Linn Dam to store up to six feet of water in Kootenay Lake subject to certain conditions relating to reimbursement for pumping costs. The Order further established the IKLBC, which was charged with certain duties, including the regulation of levels of Kootenay Lake.

2. Board Membership and Directive

The Board's [website](#) contains information on all facets of its operations. A list of current membership is available, and a reference map of the basin is also included <https://ijc.org/en/klbc>. Since 1943, the Board has consisted of four members (one each from the US Army Corps of Engineers, US Geological Survey, Environment and Climate Change Canada and the BC Ministry of the Environment). Per the Board's October 24, 2016, [Directive](#), its mandate includes ensuring compliance with the Order and acting as an advisor to the IJC on matters relating to the Order.

Item 5 of the directive states that the Board, "...shall consist of a United States Section and a Canadian Section, comprising an equal number of members from each country... The Commission shall normally appoint each member for a three-year term. Appointments may be renewed for additional terms."

To better address basin issues and incorporate a wider range of viewpoints, in 2024 the Board is expanding to a total of eight members, four from each country, with a focus on Indigenous knowledge and local expertise.

3. Board Duties and Level of Commitment

A full list of the Board's duties is included in Item 4 of the Directive.

Consistent with Item 4, the duties of the Board members include:

- Keeping the IJC informed of all matters relating to the Order, including by participating in semi-annual appearances with IJC Commissioners;
- Determining the date of commencement of the spring rise, in collaboration with the Applicant;
- Participating in one in-person board meeting per year and in additional conference calls (currently two per year);
- Participating in one public meeting per year;
- Coordination "...with appropriate Native American, First Nation and Métis representatives, government agencies, and other institutions in both countries as may be needed or desirable,"; and
- Submission of annual activities reports and an annual workplan.

Additionally, members will correspond with other Board members, co-chairs, secretaries, IJC liaisons, etc. via e-mail, phone, Zoom, Microsoft Teams, etc. Members may also participate in IJC workshops they are interested in attending.

The level of commitment required to perform these duties can vary, but members can expect to typically spend approximately ten days' worth of time working on Board duties each year of their term(s).

4. Consensus

Item 17 of the Directive notes that, "The Board shall operate by consensus." The *2020 IJC Guidance on Board Consensus* (attached; Consensus Guidance) elaborates on the IJC's definition of consensus as "General agreement that takes into account and reconciles the views of all or most Board members." The Consensus Guidance further notes that, "Board members should strive to continue discussions until consensus is reached." The Consensus Guidance clarifies that consensus does not necessarily require unanimity, and it addresses in detail the different forms of opposition that Board members might raise:

- Reservation – where members may indicate reservations with regard to a proposed Board decision, but indicate that they are willing to allow the proposed decision to pass contrary to their views; or
- Express opposition – where members may indicate opposition to the proposed decision and indicate that they are not willing to allow the proposed decision to pass.

Item 17 of the Directive states, "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." This includes situations where a Board member indicates express opposition to a Board decision.

5. Personal and professional capacity

The Consensus Guidance states that, for all IJC Boards, "Members are expected to act in their personal and professional capacity, and not as representatives of their country or employing organization..." and "...participation in an IJC Board carries with it the obligation to act in the best interests of the mission and mandate of the Board."

Similarly, item 5 of the Directive states that, "Members shall act in their personal and professional capacity, and not as representatives of their nations, agencies, or institutions."

Consistent with that guidance, the IJC expects all members to serve the Board in the best interest of all watershed users. Members typically have a wide range of technical and personal backgrounds and experiences. Members are encouraged to leverage these backgrounds to provide valuable insight and perspective in Board decisions; however, they must continue to act in the best interests of the mission and mandate of the Board.

Individuals unwilling or unable to comply with these requirements are ineligible to serve as Board Members.

6. Indigenous and Stakeholder Group Observers

In the past, certain IJC Boards – the St. Croix International Watershed Board, in particular – have had stakeholder groups or Indigenous Nations who wished to engage with the Board, but due to a range of

factors, were not interested in serving as Board members. In some cases, the Boards have, at their discretion, invited certain individuals to serve as observers to their meetings. In the case of the St. Croix International Watershed Board, the individual who served as an observer, after some time, became a board member and continues to serve at present. The IKLBC might exercise its discretion to invite individual observers, depending on interest from the groups in question.

Unlike Board Members, observers *can* represent a particular group/nation/association/community/etc. and might align with that group's best interests alone. Observers' input on Board discussions and decisions can be encouraged and welcomed, but observers cannot participate directly in Board decision making.

7. Advisory Group Members

Item 9 of the Directive permits the Board to, "...establish such committees and working groups as may be required to fulfill its responsibilities in a knowledgeable and effective manner." Participation of advisory group members in board meetings is at the discretion of the Board.

Elsewhere along the border between our two countries, advisory groups have been established for members of the public to advise on and support the work of various IJC Boards. For example, Public or Community Advisory Groups or Committees exist on various IJC boards. Generally speaking, individuals on these bodies are not limited to acting in their personal and professional capacities and can simply represent their communities or organizations. The IKLBC currently does not have any active advisory groups, but this option may be explored at any time.

8. Group Representatives

Several people have approached (or been solicited by [per Item 4g of the Directive]) the IJC and its Boards as "group" representatives, both formally (e.g., by submitting letters) or informally (e.g., at open meetings), but to date, none has indicated interest in participating officially as observers or members. The Commission and its Boards appreciate and consider all input in their deliberations. That said, such representatives, similar to observers, do not have Board decision making authority. A common impediment is that input from representatives is often lacking a mechanism for effective and efficient follow-up for more information or clarification in a timely manner, when needed. Therefore, the IJC encourages all "groups" that have been invited to participate to consider nominating observers or members to facilitate effective and ongoing outreach and engagement.

9. IJC Appointment Process

The IJC's six Commissioners appoint all Board Members by consensus. Nominations for Board membership appointments are by invitation only and nomination letters must be received in writing. Nominees must be willing and able to provide their personal curriculum vitae (CV) and a short biography. Nominations may also require the support of both Board co-chairs prior to the IJC's consideration of that individual for appointment.

Appointees receive a formal letter upon appointment along with an information packet (containing related documents (e.g., Order, Directive, etc.), policies and guidelines and other related reference material). As noted in Item 5 of the Directive, "The Commission shall normally appoint each member for a three-year term. Appointments may be renewed for additional terms."

For the time being, observers do not need any formal appointment process, and the Board may invite observers to their meetings as desired. Appointment processes for advisory groups can vary and could be appointed by the Board or by the Commission. The Board will work with IJC staff on any appointment process for potential advisory groups.

10. Binational Parity and Size

The IJC strives for binational parity with regards to membership of all its Boards and their committees and working groups. In addition to respecting binational parity, Boards have practical limitations for the number of members, observers, or advisory groups associated with the Board. The Board must execute its mandated Order and perform the duties specified in its Directive, and having too few or too many members may affect the ability of the Board to effectively make decisions and operate. The Board and the IJC continue to work together to determine the most appropriate number of members for this Board and whether supporting advisory groups may be appropriate.

11. Expense Recovery

Item 10 of the Directive notes, “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.”

There are some situations where the IJC has funds available to support travel of some non-governmental Board participants. In general, members, observers, and advisory group members are not reimbursed by the IJC for their support. However, in some cases, consideration for reimbursement can be given to public members, particularly when those individuals are not affiliated with an organization or agency.