

Appendix A

Waterway Designation, MNR Site Information Package and ZOI rationale

Contents

1. Designation of Managed Waterway for the Purpose of the Ontario Waterpower Class Environmental Assessment: Wabageshik Rapids, Vermilion River- *Aird and Verlis LLP*
2. Waterpower Site Information Package (SIP)
3. Ministry of Natural Resource Sudbury District- Values Map- *Ontario Ministry of Natural Resources*
4. Zone of Influence (ZOI) – *rationale document from Xeneca to OEL-HydroSys, September 6, 2013.*

September 16, 2011

Confidential

Xeneca Power Development Inc.
Yonge-Norton Centre
1200-5255 Yonge Street
Toronto, ON M2N 6P4

Attention: Mr. Mark Holmes, Vice President

Dear Mr. Holmes:

**Re: Designation of Managed Waterway for the Purpose of the Ontario
Waterpower Class Environmental Assessment
Project: Wabageshik Rapids
River: Vermilion River**

In carrying out the environmental review as part of the Ontario Waterpower Association's Waterpower Class Environmental Assessment (the "Class EA") the proponent is to indicate whether the proposed project is located on a managed or unmanaged waterway. The primary difference being the obligation for the proponent to publish a Notice of Inspection and circulate a draft copy of the screening report for review prior to the Notice of Completion.

You have requested that Aird & Berlis LLP review whether such consent is necessary for the MNR to be legally in a position to grant Xeneca the surface rights required to construct the proposed waterpower facilities, including connecting lines to the electricity grid. This letter may be shared with the Ministry of Natural Resources ("MNR") and the Ministry of the Environment ("MOE").

Background and Facts:

In preparing this opinion, Aird & Berlis LLP has relied upon the following information, which if untrue, could have a significant impact upon the views expressed herein:

1. Xeneca has provided a copy of the attached map showing the area around the Project and we would note the following:
 - a. The Project Description Report prepared for the environmental review included the following information:

- i. The area is subject to the Spanish/Vermillion River Water Management Plan.
 - ii. INCO owns the 3.74MW Lorne Falls Generation Station at the upper end of Wabageshik Lake.
 - b. The Vermillion River is a tributary of the Spanish River which flows to Lake Huron.
 - c. There are a series of bridges for roads crossing the Vermillion River.
 - d. The Stobie Dam, now abandoned, was built for the Domtar plant but only part of the structure remains.
 - e. The Stobie Dam was identified in the Greater Sudbury Official Plan - Stormwater Management. An excerpt is attached. The Stobie Dam is upstream of the proposed projects. It should be noted that there is also a Stewardship Group for the Vermillion Lake.
 - f. A copy of the Greater Sudbury Source Protection Area Draft Assessment Report indicates 14 dams located on the Vermillion River. (excerpt attached)
 - g. Permits to Take Water were issued for the Stobie Dam to Domtar Inc. and for Falconbridge Inc. (copies attached)
 - h. The Nickel District Conservation Authority has jurisdiction and responsibility for the Vermillion River.
2. The Ontario Waterpower Association has informed Xeneca that during the development of the Class EA the policy discussion regarding "unmanaged waterway" was intended to pertain to undisturbed rivers for which there tends to be very little information such as rivers in the Northern Rivers Area.

Analysis:

The classification of a project is completed in a manner that is consistent with the policy and definitions provided in the Class EA. The terms "managed waterway" and "unmanaged waterway" are defined in the Class EA. The Class EA also states that the plain meaning of terms is to be presumed unless a statutory definition provides a different meaning. The relevant definitions from the Class EA are:

Managed Waterway – A waterway on which other water management infrastructure (dams, diversions, weirs etc.) and/or waterpower facilities exist and for which a human-made water management regime (i.e., levels and flows) has been established.

Unmanaged Waterway – A waterway on which no other water management infrastructure (dams, diversions, weirs etc.) and/or waterpower facilities exist and for which no human-made water management regime (i.e. levels and flows) has been established.

Waterway – a river, stream, canal, lake or other water related feature.

(A) It should be noted that the Ontario Waterpower Association, the proponent of the Class, has suggested minor amendment to the MOE regarding the definition of Managed and Unmanaged Waterway. These requested clarification support the contention that the designation of the river looks at the "full reach" and not the zone of influence. Further it suggests that Unmanaged Rivers tend to be in the Northern Rivers area and are without human structures. The proposed definitions are:

- **Managed Waterway** – A waterway, including its full reach on which other water management infrastructure (dams, diversions, weirs etc.) and/or waterpower facilities exists.
- **Unmanaged Waterway** – A waterway, including its full reach, generally in Ontario's Far North, on which no other water management infrastructure (dams, diversions, weirs etc.) and/or waterpower facilities exist.

The OWA Class EA provides the following:

3.1.2 New Projects on Managed Waterways

These are new projects on waterways that are already subject to water level and/or flow management. These projects may be expected to have potential broader effects and/or public, Aboriginal community and/or agency interest. However, given that projects in this category are restricted to those that take place on river systems already subject to water management, the evaluation and assessment will be primarily focused on the development site, the immediate zone of influence and the potential incorporation of the new operation into the existing water management regime. Some developments may involve changes to the existing regime and, hence, the involvement of a broader scope of interests and potentially a broader study area / zone of influence.

The Class EA provides the following rationale for categorizing projects as "unmanaged".

Section 3.1.3

These projects occur on unmanaged waterways and can have the most potential to cause broad effects and/or are expected to have considerable public, Aboriginal community and/or agency interest. These projects feature new developments on river systems not previously subject to water level and flow management. They will not only involve consideration of the direct effects of the new infrastructure, but are

also most likely to require an assessment of the implications of an introduced water management regime.

The logic of the two classifications being that where a facility is proposed on a river system that does not contain structures or a water management plan that the introduction of such features should be carefully considered because there is the introduction of a "new" influence on the waterway for which the potential impacts should be carefully considered. The unmanaged waterway projects are therefore subjected to an additional public notice, the Notice of Inspection, to ensure the public is informed of the potential impacts and the proposed mitigation strategies are discussed. For a managed waterway, the project must be integrated into the existing water management regime and much of the dialogue will revolve around the current management of the waterway and the potential changes to the manner in which the levels/flows are regulated. With a managed waterway there is an understanding of the behaviour of the waterway through the water management regime and typically the new facility will be integrated into the existing scheme rather than making significant alterations to the water management plan.

Conclusion: Is the Vermilion River a Managed Waterway?

In short, there are a number of water level or flow control facilities located on the Vermilion River and therefore it should properly be characterized as a managed waterway.

If there are any questions, please contact me at your earliest convenience.

Yours truly,

AIRD & BERLIS LLP

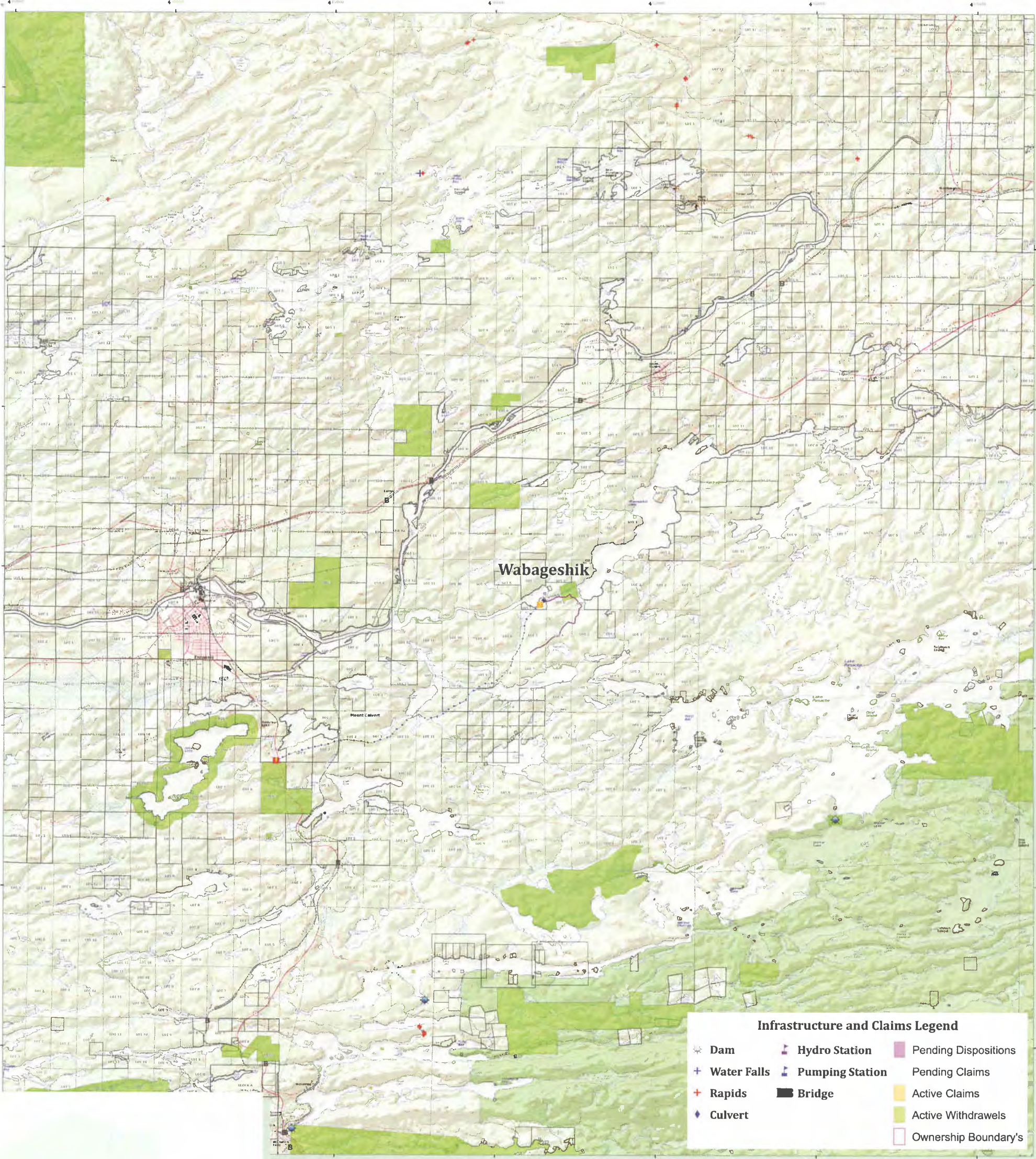


Scott Stoll

SS/hm
Attachments

cc Mr. A. Chan (letter only)

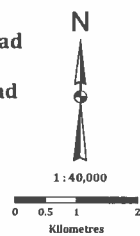
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Reference data based on the Toporama 1:50,000 scale topographic reference product developed by Natural Resources Canada (NRCan) and the Land Information Ontario data warehouse, Ontario Ministry of Natural Resources.

Vermilion River (Wabageshik)

- | | | |
|--------------------------------|--|---------------------------|
| * Dam Site | Proposed Power Line | Proposed New Access Road |
| Point of Connection (PC) | Highway and Local Roads | Potential New Access Road |
| Point of Common Coupling (PCC) | Resource / Recreation Access Route (requires field verification) | Railway |
| Park | | |



Xeneca
Power Development Inc.

Tab 1

Table 2.12 - Vermilion River dams and diversion structures

Dam Structure	Owner	Purpose	Description of Operational Plan
Bannerman Dam	Domtar	Onaping Lake serves as a reservoir.	The reinforced concrete dam has a single log sluiceway, which contains stop logs. The dam also has east and west weir.
Onaping Lake Dam	Domtar	In conjunction with the Bannerman Dam, regulates the lake level.	The reinforced concrete dam has three log sluiceways, which contains many stop logs.
Strathcona Creek Dam	Xstrata	Is a final effluent polishing pond dam. The purpose of the control station is to control water quantity and quality.	A 61 cm diameter pipe is installed in the roadway beside the existing 1.83 m diameter culverts (culverts remain for contingency purposes). A separate 31 cm pipe is installed to provide extra discharge. The 61 cm pipe flow is measured by an ultrasonic flow meter which is controlled by a butterfly valve.
Stobie Dam	Domtar	Water management	The reinforced concrete dam has five log sluiceways, four of which has double stop logs. The dam also has an east and west weir.
Windy Lake Dam	Ministry of Natural Resources	The dam is used to regulate the water level.	The dam discharges in to the Windy Creek, which finally discharges in to the Onaping River near Dowling. The dam consists of a log sluiceway and an Ogee Spillway.
Whitewater Lake Dam	Ministry of Natural Resources	Regulate water level for recreational purpose. Dam controls the level of Whitewater Lake.	The reinforced concrete dam has two log sluiceways which contains stop logs. The sluiceways are 8.5 m in width, the height of the dam is 3.96 m with maximum head of 2.7 m and a total dam length of 24.4 m.
Maley Dam	NDCA	Flood control	Dam discharges through sluiceway and steel gates.
Nickeldale Dam	NDCA	Flood control	Controls a discharge area of 9 km ² . The dam is 381 m long and 9 m high with a core of impervious clay covered with earth fill and protected by a layer of rock fill.
Lake Laurentian Dam	NDCA	Controls lake level	The structure is concrete box culvert with six 4 inch logs installed. Controls a drainage area of approximately 8 km ² .
Nepawhin Dam	NDCA	Water level control	The dam has three bays, each approximately 0.9 m wide, with a 10 cm logs in each bay.
Kelly Lake Dam	NDCA	Manage water level in Kelly Lake	The concrete weir is about 18.3 m wide and 1.22 m high.
Robinson Lake Dam	City of Greater Sudbury	Used for recreation and to prevent a back flow from Kelley lake.	The concrete weir has one stop log. And covers a drainage area of 25.4 km ² .
Ramsey Lake Dam	City of Greater Sudbury	Used for flood control, recreation and water level control for the municipal water supply intake.	The reinforced concrete dam has two sluiceways and contain up to seven stop logs in each sluiceway. The dam covers a drainage area of 12.7 km ² .
Wabageshik Dam	Vale Inco	Power Generation	The run on the river facility, consists of a concrete gravity type dam structure. The dam is 221 m in length. The spillway consists of a single motorized gate, which is 12.2 m in length and 7.3 m in height.

PRIORITY WATERSHEDS

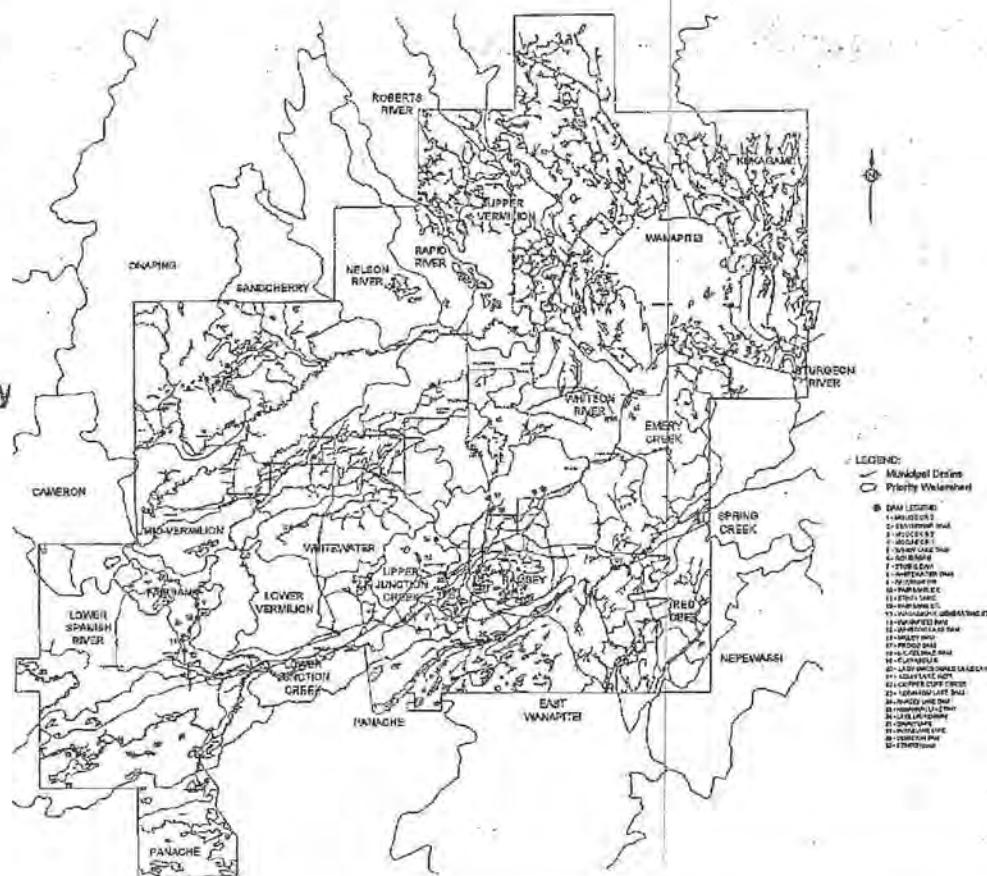
NINE PRIORITY WATERSHEDS HAVE BEEN IDENTIFIED

❖ Priority Watersheds:

- Have significant existing water quality problems associated with urban storm drainage; or
- Have significant stormwater conveyance problems caused by urbanization; or
- Have significant development pressure, which may increase the potential for both water quality and quantity issues.

❖ Priority Watersheds in the City of Greater Sudbury

- East Wanapitei River
- Emery Creek
- Whitson River
- Whitewater
- Ramsey
- Upper Junction
- Lower Junction
- Panache
- Onaping





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Instrument Decision Notice:

Proponent: Domtar Inc.

Domtar Inc.

1 Station Road

Espanola Ontario

Canada P5E 1R6

Instrument Type: Permit to take water - OWRA s. 34

EBR Registry Number: 010-6083

Ministry Reference Number: 8062-7PEQDD

Ministry:

Ministry of the Environment

Date Proposal loaded to the

Registry:

March 05, 2009

Date Decision loaded to the

Registry:

July 14, 2009

Keyword(s): Water

Decision on Instrument:

Permit To Take Water was issued on July 10, 2009, as follows:

- **Source of Water:** Vermillion River / Stobie Dam
- **Purpose of Water Taking:** Dams and Reservoirs (controlling water level)
- **Max. litres taken per minute:** 27,000,000,000
- **Max. number of hours taken per day:** 24
- **Max. litres taken per day:** 27,000,000,000
- **Max. number of days taken per year:** 365
- **Length of Permit:** 2 years

Comment(s) Received on the Proposal: 0

Public Consultation on the proposal for this decision was provided for 30 Days, from March 05, 2009 to April 04, 2009.

As a result of public consultation on the proposal, the Ministry received a total of 0 comments.

Effect(s) of Consultation on this Decision:

No comments were received.

Leave to Appeal Provisions:

Any resident of Ontario may seek leave to appeal this decision, by serving written Notice, within 15 days of July 14, 2009 upon the following:

Environmental Commissioner of Ontario:

Environmental Commissioner of Ontario

Contact:

Northern Region
Permit To Take Water
Coordinator
Ministry of the Environment
Operations Division
Northern Regional Office
435 James Street South
Floor 3
Suite 331
Thunder Bay Ontario
P7E 6S7
Phone: (807) 475-1734

Location(s) Related to this Instrument:

Vermillion River - Stobie Dam
Address: Lot: 10, Concession:
6, Greater Sudbury, City,
District of Sudbury

DISTRICT OF SUDBURY

Additional Information:

The following government offices have additional information regarding this Decision. To arrange a viewing of these documents please call the Ministry Contact or the Office listed below.

1075 Bay Street
Suite 605
Toronto Ontario
M5S 2B1
Phone: (800) 701-6454

Issuing Authority:

Patrick Morash
Supervisor, Water Resources
Technical Support Section
435 James Street South
Floor 3
Thunder Bay Ontario
P7E 6S7
Phone: (807) 475-1271
Fax: (807) 475-1754

Proponent:

Domtar Inc.
Domtar Inc.
1 Station Road
Espanola Ontario
Canada P5E 1R6

Appellate Body:

Secretary
Environmental Review Tribunal
655 Bay Street
Floor 15
Toronto
M5G 1E5
Phone: (416) 314-4600
Fax: (416) 314-4506

Northern Regional Office
435 James Street South
Floor 3
Suite 331
Thunder Bay Ontario
P7E 6S7
Phone: (807) 475-1205

The documents linked below
are provided for the purposes
of enhancing public
consultation.
All links will open in a new
window

1. Permit To Take Water

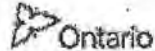
The Notice must be signed and dated and include all of the following information:

1. The EBR Registry Number, the Ministry Reference Number, the Proponent's name and address to whom the instrument was issued and the location of Activity. (All available from this Registry posting)
2. A copy of any comments that were submitted on the original proposal, if comments were not submitted, an explanation of your interest in seeking leave to appeal the decision is required.
3. A description of the grounds for the application for leave to appeal including information that demonstrates that:
(a) there is a good reason to believe that no reasonable person, having regard to the relevant law and any government policies developed to guide decisions of that kind, could have made the decision; and
(b) the decision in respect of which an appeal is sought could result in significant harm to the environment.
4. The portion of the instrument or each term or condition in the instrument in respect of which the leave to appeal is applied for.
5. The grounds on which you intend to reply at the hearing, in the event that the leave to appeal is granted, in relation to each portion that you are seeking leave to appeal.

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Ministry of Environment

RENEWAL

PERMIT TO TAKE WATER No. 73-P-345

Under Section 34 of The Ontario Water Resources Act, R.S.O. 1990, this Permit is issued to:

Falconbridge Ltd.

whose address for all purposes pertaining to this Permit is:

Sudbury Mine/Mill Business Unit

Onaping, ON P0M 2R0

for the taking of water in accordance with the terms and conditions set out below and on the back of this form and on the attached Appendix 1.

TERMS AND CONDITIONS

PARTICULARS

SOURCE(s): Vermillion River

LOCATION(s): Lockerby Mine Site, Lot 12, Concession 4, Graham Township, 476450E
5140600N Z16

PURPOSE: industrial process water

TAKING TO COMMENCE ON: April 1, 2003

PERMIT EXPIRES: March 31, 2008

RATE OF WATER TAKING NOT TO EXCEED:

A maximum of 2,500 litres per minute or 3,600,432 litres per day

Dated at Thunder Bay, ON, this 19th day of September, 2003

"Original Signed by Dave Hollinger"

Director, Section 34

Ontario Water Resources Act

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NOTICE OF TERMS AND CONDITIONS

The Ontario Water Resources Act, Section 100
R.S.O. 1990

Take notice that in issuing this Permit to Take Water, terms and conditions pertaining to the taking of water and to the results of the taking have been imposed. The terms and conditions have been designed to allow for the development of water resources for beneficial purposes while providing reasonable protection to existing water uses and to public interests in water.

You may appeal the terms and conditions by giving written notice to the Director of the Ministry at the appropriate Region Office (see letter head overleaf), and to the Environmental Review Tribunal, P.O. Box 2382, 2300 Yonge St., Suite 1201, Toronto, Ontario, M4P 1E4, within fifteen days after service of this Notice. In the event of an appeal, the terms and conditions of the Permit, as issued, would remain in effect until the appeal has been finalized.

General Terms and Conditions

These terms and conditions have been designed to allow for the development of water resources for beneficial purposes while providing reasonable protection to existing water uses and to public interests in water.

1. Permit

This Permit shall be kept available at all times for inspection.

2. Measurement and Reporting of Water Taking

The Director may, from time to time, where a situation of interference or anticipated interference with water supplies exists, or in a situation requiring information on water takings for purposes of water resource inventory and planning, give written notice to the Permit holder to undertake any of the following actions.

The Permit holder shall comply with any such notice:

- (a) To establish and maintain a system for the measurement of the quantities of water taken;
- (b) To operate such a system and to record measurements of the quantities of water taken on forms provided by the Director, with such frequency or for such time periods as the Director may specify;
- (c) To return to the Director records made pursuant to clause 2 (b) at such times or with such frequency as the Director may specify;
- (d) To keep records made pursuant to clause 2 (b) available for inspection until such time as they are returned to the Director pursuant to clause 2 (c).

3. Interference with Other Water Supplies

The Permit holder shall immediately notify the Director of any complaint arising from the taking of water authorized by this Permit and shall report upon any action which has been taken or is proposed with regard to such complaint.

For Surface-Water Takings, the taking of water (including the taking of water into storage and the subsequent or simultaneous withdrawal from storage) shall be carried out in such a manner that streamflow is not stopped and is not reduced to a rate that will cause interference with downstream uses of water or with the natural functions of the stream.

For Ground-Water Takings, if the taking of water is forecast to interfere seriously, or is observed to interfere seriously with other water supplies obtained from any adequate sources that were in use prior to initial issuance of a Permit for this water taking, the Permit holder shall take such action as will make available to those affected a supply of water equivalent in quantity and quality to their normal takings, or shall compensate such persons for their reasonable costs of so doing, or shall reduce the rate and amount of taking so as to prevent the forecast interference or alleviate the observed interference. Pending permanent restoration of the affected supplies, the Permit holder shall provide to those affected temporary water supplies adequate to meet their normal requirements, or shall compensate such persons for their reasonable costs of so doing.

4. Reporting of Changes

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The Permit holder shall report to the Director any changes of address or telephone number, or change of ownership of the property for which this Permit is issued and shall report to the Director any changes in the general conditions of water taking from those described in the Permit application within thirty days of any such change. The Permit holder shall not assign his rights under this Permit to another person without the written consent of the Director.

5. Expiry

No water may be taken under authority of this Permit after the expiry date shown on the face of this Permit, unless the Permit is renewed, or after the expiry date shown on any renewal of this Permit.

6. Liability

This Permit does not release the permittee from any legal liability or obligation and remains in force subject to all limitations, requirements, and liabilities imposed by law. This Permit shall not be construed as stopping or limiting any legal claims or rights of action that any person, including the Crown in right of Ontario or any agency thereof, has or may have against the permittee, its officers, employees, agents, and contractors.

7. Transfers

this permit does not abrogate the permit holder's responsibility to comply with all applicable legislation, including O. Reg. 285/99, which provides, among other things, that no person shall use water by transferring it out of a water basin (as defined in the Regulation) in a container having a volume greater than 20 litres. The regulation divides Ontario into three water basins, being the Great Lakes-St Lawrence, the Nelson and Hudson Bay Basins.

8. Water Shortages/Drought

The Director may, during times of drought or water shortage in the locality of the taking, give notice to the Permit Holder to suspend or reduce the taking to an amount or threshold specified by the Director. The suspension or reduction in taking shall be effective immediately and may be revoked at any time upon notification by the Director. This condition does not affect your right to appeal the notice to the Environmental Review Tribunal under the Ontario Water Resources Act, Section 100(3).

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APPENDIX 1

RENEWAL

SPECIAL TERMS AND CONDITIONS

Permit To Take Water No 73-P-345

Falconbridge Ltd

Strathcona Services Building

Onaping, ON P0M 2R0

1. No water taken under the authority of this Permit may be discharged directly to the natural environment without prior treatment in accordance with O.W.R.A. Section 53, Industrial Sewage Works Approval, Certificate of Approval # 4-0091-87-007.
2. The Permit Holder shall maintain a record of all water takings. This record shall include the dates and times of water takings as well as pumping rates and total volumes pumped per day. Water taking records shall be maintained and kept on site for inspection by Ministry of the Environment staff.
3. The Permit Holder shall ensure that all staff or other individuals taking water granted by this Permit be familiar with and adhere to the Terms and Conditions provided.
4. The Permit Holder shall ensure a copy of the Permit and the attached Appendix 1 are posted near the location of the taking for anyone wishing to review its contents.
5. Should the quantities of water taken significantly change to be greater than that provided for on the Permit, this office shall be notified as soon as possible.

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NOTICE OF RENEWAL

In accordance with Section 100 of the Ontario Water Resources Act, R.S.O. 1990, notice is hereby given of the issuance of Permit To Take Water

73-P-345

which contains terms and conditions pertaining to the taking of water and to the results of the taking. The terms and conditions have been designed to allow for the development of water resources for beneficial purposes while providing reasonable protection to existing water uses and to public interests in water.

You may, by written notice served upon me and the Environmental Review Tribunal, within fifteen days after receipt of this Notice, require a hearing by the Tribunal. Section 101 of the Ontario Water Resources Act, as amended provides that this Notice requiring a hearing shall state:

1. The portions of the Permit or each term or condition in the Permit in respect of which the hearing is required, and;
2. The grounds on which you intend to rely at the hearing in relation to each portion appealed.

In addition to these legal requirements, the Notice shall also include:

3. The name of the appellant;
4. The address of the appellant;
5. The Permit to Take Water number;
6. The date of the Permit to Take Water;
7. The name of the Director;
8. The municipality within which the works is located;

and the Notice should be signed and dated by the appellant.

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The Notice must be served upon:

The Secretary
Environmental Review Tribunal
P.O. Box 2382
2300 Yonge Street, Suite 1201
Toronto, Ontario
M4P 1E4

The Director
Section 34
Ontario Water Resources
Act
(issuing office)

The Environmental of
Ontario
1075 Bay St., 6th floor
Suite 605
Toronto ON, M5S 2W5

Further information on the Environmental Review Tribunal's requirements for an appeal can be obtained directly from the Tribunal by

telephone at (416) 314-4600

fax at (416) 314-4506 or

by on the internet at <http://www.ert.gov.on.ca/>

In the event of an appeal, the terms and conditions of the Permit, as issued, would remain in effect until the appeal has been finalized.

Dated at Thunder Bay This 19th day of September, 2003

"Original Signed by Dave Hollinger"

Director, Section 34

Ontario Water Resources Act, R.S.O. 1990

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PERMIT TO TAKE WATER
Surface Water
NUMBER 2675-7SXPXM

Pursuant to Section 34 of the Ontario Water Resources Act, R.S.O. 1990 this Permit To Take Water is hereby issued to:

Vale Inco Limited
337 Power St (General Engineering Building)
Copper Cliff, Ontario, P0M 1N0
Canada

For the water taking from: Vermilion River

Located at: Lot 10, Concession 5, Graham, Geo. Twp.
Greater Sudbury, District of Sudbury

For the purposes of this Permit, and the terms and conditions specified below, the following definitions apply:

DEFINITIONS

- (a) "Director" means any person appointed in writing as a Director pursuant to section 5 of the OWRA for the purposes of section 34, OWRA.
- (b) "Provincial Officer" means any person designated in writing by the Minister as a Provincial Officer pursuant to section 5 of the OWRA.
- (c) "Ministry" means Ontario Ministry of the Environment.
- (d) "District Office" means the Sudbury District Office.
- (e) "Permit" means this Permit to Take Water No. 2675-7SXPXM including its Schedules, if any, issued in accordance with Section 34 of the OWRA.
- (f) "Permit Holder" means Vale Inco Limited.
- (g) "OWRA " means the *Ontario Water Resources Act*, R.S.O. 1990, c. O. 40, as amended.

You are hereby notified that this Permit is issued subject to the terms and conditions outlined below:

TERMS AND CONDITIONS

1. Compliance with Permit

- 1.1 Except where modified by this Permit, the water taking shall be in accordance with the application for this Permit To Take Water, dated March 3, 2009 and signed by Edward Cocchiarella, and all Schedules included in this Permit.
- 1.2 The Permit Holder shall ensure that any person authorized by the Permit Holder to take water under this Permit is provided with a copy of this Permit and shall take all reasonable measures to ensure that any such person complies with the conditions of this Permit.
- 1.3 Any person authorized by the Permit Holder to take water under this Permit shall comply with the conditions of this Permit.
- 1.4 This Permit is not transferable to another person.
- 1.5 This Permit provides the Permit Holder with permission to take water in accordance with the conditions of this Permit, up to the date of the expiry of this Permit. This Permit does not constitute a legal right, vested or otherwise, to a water allocation, and the issuance of this Permit does not guarantee that, upon its expiry, it will be renewed.
- 1.6 The Permit Holder shall keep this Permit available at all times at or near the site of the taking, and shall produce this Permit immediately for inspection by a Provincial Officer upon his or her request.
- 1.7 The Permit Holder shall report any changes of address to the Director within thirty days of any such change. The Permit Holder shall report any change of ownership of the property for which this Permit is issued within thirty days of any such change. A change in ownership in the property shall cause this Permit to be cancelled.

2. General Conditions and Interpretation

- 2.1 **Inspections**
The Permit Holder must forthwith, upon presentation of credentials, permit a Provincial Officer to carry out any and all inspections authorized by the OWRA, the *Environmental Protection Act*, R.S.O. 1990, the *Pesticides Act*, R.S.O. 1990, or the *Safe Drinking Water Act*, S. O. 2002.
- 2.2 **Other Approvals**
The issuance of, and compliance with this Permit, does not:
 - (a) relieve the Permit Holder or any other person from any obligation to comply with any other applicable legal requirements, including the provisions of the *Ontario Water Resources Act*, and the *Environmental Protection Act*, and any regulations made thereunder; or
 - (b) limit in any way any authority of the Ministry, a Director, or a Provincial Officer, including the authority to require certain steps be taken or to require the Permit Holder to furnish any

further information related to this Permit.

- 2.2.1 Prior to the taking of water under the authorization of this Permit for municipal purposes, the Permit Holder shall ensure compliance with the *Safe Drinking Water Act*, S.O. 2002 and its regulations. At no time does this permit authorize the taking of water when out of compliance with the *Safe Drinking Water Act*, S.O. 2002 and its regulations.
- 2.2.2 Prior to the taking of water under the authorization of this Permit for industrial purposes, the Permit Holder shall ensure that the discharge complies with Section 53 of the OWRA, R.S.O. 1990.

2.3 Information

The receipt of any information by the Ministry, the failure of the Ministry to take any action or require any person to take any action in relation to the information, or the failure of a Provincial Officer to prosecute any person in relation to the information, shall not be construed as:

(a) an approval, waiver or justification by the Ministry of any act or omission of any person that contravenes this Permit or other legal requirement; or

(b) acceptance by the Ministry of the information's completeness or accuracy.

2.4 Rights of Action

The issuance of, and compliance with this Permit shall not be construed as precluding or limiting any legal claims or rights of action that any person, including the Crown in right of Ontario or any agency thereof, has or may have against the Permit Holder, its officers, employees, agents, and contractors.

2.5 Severability

The requirements of this Permit are severable. If any requirements of this Permit, or the application of any requirements of this Permit to any circumstance, is held invalid or unenforceable, the application of such requirements to other circumstances and the remainder of this Permit shall not be affected thereby.

2.6 Conflicts

Where there is a conflict between a provision of any submitted document referred to in this Permit, including its Schedules, and the conditions of this Permit, the conditions in this Permit shall take precedence.

3. Water Takings Authorized by This Permit

3.1 Expiry

This Permit expires on **January 22, 2020**. No water shall be taken under authority of this Permit after the expiry date.

3.2 Amounts of Taking Permitted

The Permit Holder shall only take water from the source, during the periods and at the rates and amounts of taking specified in Table A. Water takings are authorized only for the purposes

specified in Table A.

Table A

	Source Name / Description:	Source: Type:	Taking Specific Purpose:	Taking Major Category:	Max. Taken per Minute (litres):	Max. Num. of Hrs Taken per Day:	Max. Taken per Day (litres):	Max. Num. of Days Taken per Year:	Zone/ Easting/ Northing:
1	Vermilion River	River	Other - Water Supply	Water Supply	56,781	24	81,764,064	365	17 478381 5142290
						Total Taking:	81,764,064		

3.3 Notwithstanding Table A above, water taken under authorization of this Permit is for municipal and industrial purposes, as well as for flow augmentation in Meatbird Creek as required by Condition 3.4 below.

3.4 The Permit Holder shall ensure that a minimum daily average flow of 106 litres per second (9,160 cubic metres per day) is maintained to the Meatbird Creek system for facilitating assimilation of sewage effluent discharged from the Lively Sewage Treatment Plant to Meatbird Creek. This is to fulfil Vale Inco Limited's ongoing responsibility to augment the natural flow in the Meatbird Creek that was interrupted by tailings operation.

3.5 In the event of a shutdown of the pumping equipment at the site for the purpose of carrying out necessary maintenance, the Permit Holder shall take all reasonable steps to ensure that the daily quantity of water directed to the Meatbird Creek system continues to be maintained at a minimum daily average of 106 litres per second (9,160 cubic metres per day).

4. Monitoring

4.1 The Permit Holder shall maintain a record of all water takings. This record shall include the dates and times of water takings, and the total measured amounts of water pumped per day for each day that water is taken under the authorization of this Permit. The Permit Holder shall keep all required records up to date and available at or near the site of the taking and shall produce the records immediately for inspection by a Provincial Officer upon his or her request.

4.2 Within 90 days of issuance of this Permit, the Permit Holder shall submit to the Director for approval, a flow monitoring plan for Meatbird Creek in order to evaluate flow augmentation in the Creek. The Plan shall include, at minimum, locations and frequency of the proposed monitoring. Upon receipt and approval of the Meatbird Creek flow monitoring plan by the director, the Permit Holder shall keep all required Meatbird Creek flow records up to date and available at or near the site of the taking and shall produce the records immediately for inspection by a Provincial Officer upon his or her request.

- 4.3 The Director may amend the monitoring conditions (Conditions 4.1 and 4.2) by letter requiring the Permit Holder to modify the monitoring program. The amendment shall be effective immediately upon notification by the Director.

5. Impacts of the Water Taking

5.1 Notification

The Permit Holder shall immediately notify the local District Office of any complaint arising from the taking of water authorized under this Permit and shall report any action which has been taken or is proposed with regard to such complaint. The Permit Holder shall immediately notify the local District Office if the taking of water is observed to have any significant impact on the surrounding waters. After hours, calls shall be directed to the Ministry's Spills Action Centre at 1-800-268-6060.

5.2 For Surface-Water Takings

The taking of water (including the taking of water into storage and the subsequent or simultaneous withdrawal from storage) shall be carried out in such a manner that streamflow is not stopped and is not reduced to a rate that will cause interference with downstream uses of water or with the natural functions of the stream.

6. Director May Amend Permit

The Director may amend this Permit by letter requiring the Permit Holder to suspend or reduce the taking to an amount or threshold specified by the Director in the letter. The suspension or reduction in taking shall be effective immediately and may be revoked at any time upon notification by the Director. This condition does not affect your right to appeal the suspension or reduction in taking to the Environmental Review Tribunal under the *Ontario Water Resources Act*, Section 100 (4).

The reasons for the imposition of these terms and conditions are as follows:

1. Condition 1 is included to ensure that the conditions in this Permit are complied with and can be enforced.
2. Condition 2 is included to clarify the legal interpretation of aspects of this Permit.
3. Conditions 3 through 6 are included to protect the quality of the natural environment so as to safeguard the ecosystem and human health and foster efficient use and conservation of waters. These conditions allow for the beneficial use of waters while ensuring the fair sharing, conservation and sustainable use of the waters of Ontario. The conditions also specify the water takings that are authorized by this Permit and the scope of this Permit.

*In accordance with Section 100 of the Ontario Water Resources Act, R.S.O. 1990, you may by written notice served upon me, the Environmental Review Tribunal and the Environmental Commissioner, **Environmental Bill of Rights**, R.S.O. 1993, Chapter 28, within 15 days after receipt of this Notice, require a hearing by the Tribunal. The Environmental Commissioner will place notice of your appeal on the Environmental Registry. Section 101 of the Ontario Water Resources Act, as amended provides that the Notice requiring a hearing shall state:*

1. The portions of the Permit or each term or condition in the Permit in respect of which the hearing is required, and;
2. The grounds on which you intend to rely at the hearing in relation to each portion appealed.

In addition to these legal requirements, the Notice should also include:

3. The name of the appellant;
4. The address of the appellant;
5. The Permit to Take Water number;
6. The date of the Permit to Take Water;
7. The name of the Director;
8. The municipality within which the works are located;

This notice must be served upon:

*The Secretary
Environmental Review Tribunal
655 Bay Street, 15th Floor
Toronto ON
M5G 1E5*

AND

*The Environmental Commissioner
1075 Bay Street
6th Floor, Suite 605
Toronto, Ontario M5S 2W5*

AND

*The Director, Section 34
Ministry of the Environment
331-435 James St S
Thunder Bay ON P7E 6S7
Fax: (807)475-1754*

Further information on the Environmental Review Tribunal's requirements for an appeal can be obtained directly from the Tribunal:

by telephone at (416) 314-4600

by fax at (416) 314-4506

by e-mail at www.ert.gov.on.ca

*This instrument is subject to Section 38 of the **Environmental Bill of Rights** that allows residents of Ontario to seek leave to appeal the decision on this instrument. Residents of Ontario may seek to appeal for 15 days from the date this decision is placed on the Environmental Registry. By accessing the Environmental Registry, you can determine when the leave to appeal period ends.*

Dated at Thunder Bay this 22nd day of January, 2010.



Patrick Morash
Director, Section 34
Ontario Water Resources Act, R.S.O. 1990

Schedule A

This Schedule "A" forms part of Permit To Take Water 2675-7SXPXM, dated January 22, 2010.



Instrument Decision Notice:

Proponent: Vale Inco Limited
337 Power Street
Copper Cliff Ontario
Canada P0M 1N0

Instrument Type: Permit to take water - OWRA s. 34

EBR Registry Number: 010-6104

Ministry Reference Number:
1385-7FYJTP

Ministry:
Ministry of the Environment

Date Proposal loaded to the Registry:
March 11, 2009

Date Decision loaded to the Registry:
January 25, 2010

Keyword(s): Water

Decision on Instrument:

Permit To Take Water was issued on January 22, 2010 as follows:

- Source of Water: Vermilion River
- Purpose of Taking: Other - Water Supply (municipal & industrial water supply)
- Maximum rate per minute (Litres): 56,781
- Maximum number of hours taking a day: 24
- Maximum volume per day (Litres): 61,764,064
- Maximum number of days of taking per year: 365
- Length of Permit: 10 years

Comment(s) Received on the Proposal: 0

Public Consultation on the proposal for this decision was provided for 30 Days, from March 11, 2009 to April 10, 2009.

As a result of public consultation on the proposal, the Ministry received a total of 0 comments.

Effect(s) of Consultation on this Decision:

No comments were received.

Leave to Appeal Provisions:

Any resident of Ontario may seek leave to appeal this decision, by serving written Notice, within 15 days of January 25, 2010 upon the following:

Environmental Commissioner of Ontario:

Environmental Commissioner of Ontario
1075 Bay Street
Suite 805
Toronto Ontario
M5S 2B1
Phone: (800) 701-6454

Issuing Authority:

Patrick Morash
Supervisor, Water Resources
Technical Support Section
435 James Street South
Floor 3
Thunder Bay Ontario
P7E 6S7
Phone: (807) 475-1271
Fax: (807) 475-1754

Proponent:

Vale Inco Limited
337 Power Street
Copper Cliff Ontario
Canada P0M 1N0

Appellate Body:

Secretary
Environmental Review Tribunal
866 Bay Street
Floor 15
Toronto
M5G 1E5
Phone: (416) 314-4500
Fax: (416) 314-4506

This Notice must be signed and dated and include all of the following information:

1. The EBR Registry Number, the Ministry Reference Number, the Proponent's name and address to whom the instrument was issued and the location of Activity. (All available from this Registry posting)
2. A copy of any comments that were submitted on the original proposal, if comments were not submitted, an explanation of your interest in seeking leave to appeal the decision is required.
3. A description of the grounds for the application for leave to appeal including information that demonstrates that:
 - (a) there is a good reason to believe that no reasonable person, having regard to the relevant law and any government policies developed to guide decisions of that kind, could have made the decision; and
 - (b) the decision in respect of which an appeal is sought could result in significant harm to the environment.
4. The portion of the instrument or each term or condition in the instrument in respect of which the leave to appeal is applied for.
5. The grounds on which you intend to reply at the hearing, in the event that the leave to appeal is granted, in relation to each portion that you are seeking leave to appeal.

Contact:

Northern Region
Permit To Take Water Coordinator
Ministry of the Environment
Operations Division
Northern Regional Office
435 James Street South
Floor 3
Suite 331
Thunder Bay Ontario
P7E 6S7
Phone: (807) 475-1734

Location(s) Related to this Instrument:

Lot: 10, Concession: 5, Greater Sudbury, City,
District of Sudbury

CITY OF GREATER SUDBURY

Additional Information:

The following government offices have additional information regarding this Decision. To arrange a viewing of these documents please call the Ministry Contact or the Office listed below.

Northern Regional Office
435 James Street South
Floor 3
Suite 331
Thunder Bay Ontario
P7E 6S7
Phone: (807) 475-1205

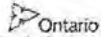
The documents linked below are provided for the purposes of enhancing public consultation. All links will open in a new window.

1. Permit To Take Water

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Instrument Proposal Notice:

Proponent: Vale Inco Limited
337 Power Street
Copper Cliff Ontario
Canada P0M 1N0

Instrument Type: Permit to take water - OWRA s. 34

EBR Registry Number:
010-6104

Ministry Reference Number:

1385-7PYJTP

Ministry:
Ministry of the Environment
Date Proposal loaded to the Registry:
March 11, 2009

Keyword(s): Water

The comment period for this proposal is now over.

Description of Instrument:

This is a new Permit to Take Water for the purpose of municipal drinking water from one (1) river. Details of the water taking are as follows:

Permit Type: new
Source of Water: Vermilion river
Purpose of Taking: municipal drinking water
Maximum rate per minute (Litres): 56,780
Maximum number of hours taking a day: 24
Maximum volume per day (Litres): 81,764,064
Maximum number of days of taking per year: 365
Length of Time: 10 years

Public Consultation:

This proposal was posted for a 30 day public review and comment period starting March 11, 2009. Comments were to be received by April 10, 2009.

All comments received during the comment period are being considered as part of the decision-making process by the Ministry of the Environment.

Please Note: All comments and submissions received have become part of the public record.

Contact:

Northern Region
Permit To Take Water
Coordinator
Ministry of the Environment
Operations Division
Northern Regional Office
435 James Street South
Floor 3
Suite 331
Thunder Bay Ontario
P7E 6S7
Phone: (807) 475-1734

Location(s) Related to this Instrument:

Lot: 10, Concession: 5,
Greater Sudbury, City, District
of Sudbury

CITY OF GREATER
SUDBURY

Additional Information:

The following government offices have additional information regarding this Proposal. To arrange a viewing of these documents please call the Ministry Contact or the Office listed below.

Northern Regional Office
435 James Street South
Floor 3
Suite 331
Thunder Bay Ontario
P7E 6S7
Phone: (807) 475-1205

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Tab 2

PERMIT TO TAKE WATER
Surface Water
NUMBER 3751-7SXH4C

Pursuant to Section 34 of the Ontario Water Resources Act, R.S.O. 1990 this Permit To Take Water is hereby issued to:

Domtar Inc.
1 Station Rd
Espanola, Ontario, P5E 1R6
Canada

For the water taking from: Vermillion River / Stobie Dam
Located at: Lot 10, Concession 6
Greater Sudbury, District of Sudbury

For the purposes of this Permit, and the terms and conditions specified below, the following definitions apply:

DEFINITIONS

- (a) "Director" means any person appointed in writing as a Director pursuant to section 5 of the OWRA for the purposes of section 34, OWRA.
- (b) "Provincial Officer" means any person designated in writing by the Minister as a Provincial Officer pursuant to section 5 of the OWRA.
- (c) "Ministry" means Ontario Ministry of the Environment.
- (d) "District Office" means the Sudbury District Office.
- (e) "Permit" means this Permit to Take Water No. 3751-7SXH4C including its Schedules, if any, issued in accordance with Section 34 of the OWRA.
- (f) "Permit Holder" means Domtar Inc..
- (g) "OWRA " means the *Ontario Water Resources Act*, R.S.O. 1990, c. O. 40, as amended.

You are hereby notified that this Permit is issued subject to the terms and conditions outlined below:

TERMS AND CONDITIONS

1. Compliance with Permit

- 1.1 Except where modified by this Permit, the water taking shall be in accordance with the application for this Permit To Take Water, dated February 17, 2009 and signed by Karrin Broadhurst, and all Schedules included in this Permit.
- 1.2 The Permit Holder shall ensure that any person authorized by the Permit Holder to take water under this Permit is provided with a copy of this Permit and shall take all reasonable measures to ensure that any such person complies with the conditions of this Permit.
- 1.3 Any person authorized by the Permit Holder to take water under this Permit shall comply with the conditions of this Permit.
- 1.4 This Permit is not transferable to another person.
- 1.5 This Permit provides the Permit Holder with permission to take water in accordance with the conditions of this Permit, up to the date of the expiry of this Permit. This Permit does not constitute a legal right, vested or otherwise, to a water allocation, and the issuance of this Permit does not guarantee that, upon its expiry, it will be renewed.
- 1.6 The Permit Holder shall keep this Permit available at all times at or near the site of the taking, and shall produce this Permit immediately for inspection by a Provincial Officer upon his or her request.
- 1.7 The Permit Holder shall report any changes of address to the Director within thirty days of any such change. The Permit Holder shall report any change of ownership of the property for which this Permit is issued within thirty days of any such change. A change in ownership in the property shall cause this Permit to be cancelled.

2. General Conditions and Interpretation

- 2.1 **Inspections**
The Permit Holder must forthwith, upon presentation of credentials, permit a Provincial Officer to carry out any and all inspections authorized by the OWRA, the *Environmental Protection Act*, R.S.O. 1990, the *Pesticides Act*, R.S.O. 1990, or the *Safe Drinking Water Act*, S. O. 2002.
- 2.2 **Other Approvals**
The issuance of, and compliance with this Permit, does not:
 - (a) relieve the Permit Holder or any other person from any obligation to comply with any other applicable legal requirements, including the provisions of the *Ontario Water Resources Act*, and the *Environmental Protection Act*, and any regulations made thereunder; or
 - (b) limit in any way any authority of the Ministry, a Director, or a Provincial Officer, including the authority to require certain steps be taken or to require the Permit Holder to furnish any

further information related to this Permit.

2.3 Information

The receipt of any information by the Ministry, the failure of the Ministry to take any action or require any person to take any action in relation to the information, or the failure of a Provincial Officer to prosecute any person in relation to the information, shall not be construed as:

(a) an approval, waiver or justification by the Ministry of any act or omission of any person that contravenes this Permit or other legal requirement; or

(b) acceptance by the Ministry of the information's completeness or accuracy.

2.4 Rights of Action

The issuance of, and compliance with this Permit shall not be construed as precluding or limiting any legal claims or rights of action that any person, including the Crown in right of Ontario or any agency thereof, has or may have against the Permit Holder, its officers, employees, agents, and contractors.

2.5 Severability

The requirements of this Permit are severable. If any requirements of this Permit, or the application of any requirements of this Permit to any circumstance, is held invalid or unenforceable, the application of such requirements to other circumstances and the remainder of this Permit shall not be affected thereby.

2.6 Conflicts

Where there is a conflict between a provision of any submitted document referred to in this Permit, including its Schedules, and the conditions of this Permit, the conditions in this Permit shall take precedence.

3. Water Takings Authorized by This Permit

3.1 Expiry

This Permit expires on **March 31, 2011**. No water shall be taken under authority of this Permit after the expiry date.

3.2 Amounts of Taking Permitted

The Permit Holder shall only take water from the source, during the periods and at the rates and amounts of taking specified in Table A. Water takings are authorized only for the purposes specified in Table A.

Table A

	Source Name / Description:	Source: Type:	Taking Specific Purpose:	Taking Major Category:	Max. Taken per Minute (litres):	Max. Num. of Hrs Taken per Day:	Max. Taken per Day (litres):	Max. Num. of Days Taken per Year:	Zone/ Easting/ Northing:
1	Vermillion River / Stobie	River	Dams and Reservoirs	Miscellaneous	27,000,000,000	24	27,000,000,000	365	17 478382

Dam							5153579
						Total Taking:	27,000,000.0 00

- 3.3 The Permit Holder shall operate the dam in accordance with the draft Vermilion River Water Management Plan which is currently under review with the Ontario Ministry of Natural Resources.

4. Monitoring

5. Impacts of the Water Taking

5.1 Notification

The Permit Holder shall immediately notify the local District Office of any complaint arising from the taking of water authorized under this Permit and shall report any action which has been taken or is proposed with regard to such complaint. The Permit Holder shall immediately notify the local District Office if the taking of water is observed to have any significant impact on the surrounding waters. After hours, calls shall be directed to the Ministry's Spills Action Centre at 1-800-268-6060.

5.2 For Surface-Water Takings

The taking of water (including the taking of water into storage and the subsequent or simultaneous withdrawal from storage) shall be carried out in such a manner that streamflow is not stopped and is not reduced to a rate that will cause interference with downstream uses of water or with the natural functions of the stream.

- 5.3 Notwithstanding Condition 5.1 above, any after hours complaint arising from the taking of water authorized under this Permit and any action which has been taken or is proposed with regard to such complaint shall be reported to the local District Office immediately the next business day, during normal business hours.

6. Director May Amend Permit

The Director may amend this Permit by letter requiring the Permit Holder to suspend or reduce the taking to an amount or threshold specified by the Director in the letter. The suspension or reduction in taking shall be effective immediately and may be revoked at any time upon notification by the Director. This condition does not affect your right to appeal the suspension or reduction in taking to the Environmental Review Tribunal under the *Ontario Water Resources Act*, Section 100 (4).

The reasons for the imposition of these terms and conditions are as follows:

1. Condition 1 is included to ensure that the conditions in this Permit are complied with and can be

enforced.

2. Condition 2 is included to clarify the legal interpretation of aspects of this Permit.
3. Conditions 3 through 6 are included to protect the quality of the natural environment so as to safeguard the ecosystem and human health and foster efficient use and conservation of waters. These conditions allow for the beneficial use of waters while ensuring the fair sharing, conservation and sustainable use of the waters of Ontario. The conditions also specify the water takings that are authorized by this Permit and the scope of this Permit.

*In accordance with Section 100 of the Ontario Water Resources Act, R.S.O. 1990, you may by written notice served upon me, the Environmental Review Tribunal and the Environmental Commissioner, **Environmental Bill of Rights**, R.S.O. 1993, Chapter 28, within 15 days after receipt of this Notice, require a hearing by the Tribunal. The Environmental Commissioner will place notice of your appeal on the Environmental Registry. Section 101 of the Ontario Water Resources Act, as amended provides that the Notice requiring a hearing shall state:*

1. The portions of the Permit or each term or condition in the Permit in respect of which the hearing is required, and;
2. The grounds on which you intend to rely at the hearing in relation to each portion appealed.

In addition to these legal requirements, the Notice should also include:

3. The name of the appellant;
4. The address of the appellant;
5. The Permit to Take Water number;
6. The date of the Permit to Take Water;
7. The name of the Director;
8. The municipality within which the works are located;

This notice must be served upon:

*The Secretary
Environmental Review Tribunal
655 Bay Street, 15th Floor
Toronto ON
M5G 1E5*

AND

*The Environmental Commissioner
1075 Bay Street
6th Floor, Suite 605
Toronto, Ontario M5S 2W5*

AND

*The Director, Section 34
Ministry of the Environment
331-435 James St S
Thunder Bay ON P7E 6S7
Fax: (807)475-1754*

Further information on the Environmental Review Tribunal's requirements for an appeal can be obtained directly from the Tribunal:

by telephone at (416) 314-4600

by fax at (416) 314-4506

by e-mail at www.ert.gov.on.ca

*This instrument is subject to Section 38 of the **Environmental Bill of Rights** that allows residents of Ontario to seek leave to appeal the decision on this instrument. Residents of Ontario may seek to appeal for 15 days from the date this decision is placed on the Environmental Registry. By accessing the Environmental Registry, you can determine when the leave to appeal period ends.*

This Permit cancels and replaces Permit Number 97-P-5001, issued on 1997/05/23.

Dated at Thunder Bay this 10th day of July, 2009.



Patrick Morash
Director, Section 34
Ontario Water Resources Act, R.S.O. 1990

Schedule A

This Schedule "A" forms part of Permit To Take Water 3751-7SXH4C, dated July 10, 2009.



Instrument Decision Notice:

Proponent: Domtar Inc.
 Domtar Inc.
 1 Station Road
 Espanola Ontario
 Canada P5E 1R6

Instrument Type: Permit to take water - OWRA s. 34

EBR Registry Number: 010-8083

Ministry Reference Number:
 8062-7PEGDD

Ministry:

Ministry of the Environment

Date Proposal loaded to the Registry:
 March 05, 2009

Date Decision loaded to the Registry:
 July 14, 2009

Keyword(s): Water

Decision on Instrument:

Permit To Take Water was issued on July 10, 2009, as follows:

- Source of Water: Vermillion River / Stobie Dam
- Purpose of Water Taking: Dams and Reservoirs (controlling water level)
- Max. litres taken per minute: 27,000,000,000
- Max. number of hours taken per day: 24
- Max. litres taken per day: 27,000,000,000
- Max. number of days taken per year: 365
- Length of Permit: 2 years

Comment(s) Received on the Proposal: 0

Public Consultation on the proposal for this decision was provided for 30 Days, from March 05, 2009 to April 04, 2009.

As a result of public consultation on the proposal, the Ministry received a total of 0 comments.

Effect(s) of Consultation on this Decision:

No comments were received

Leave to Appeal Provisions:

Any resident of Ontario may seek leave to appeal this decision, by serving written Notice, within 15 days of July 14, 2009 upon the following:

Environmental Commissioner of Ontario:

Environmental Commissioner of Ontario
 1075 Bay Street
 Suite 605
 Toronto Ontario
 M5S 2B1
 Phone: (800) 701-6454

Issuing Authority:

Patrick Morash
 Supervisor, Water Resources
 Technical Support Section
 435 James Street South
 Floor 3
 Thunder Bay Ontario
 P7E 8S7
 Phone: (807) 475-1271
 Fax: (807) 475-1754

Proponent:

Domtar Inc.
 Domtar Inc.
 1 Station Road
 Espanola Ontario
 Canada P5E 1R6

Appellate Body:

Secretary
 Environmental Review Tribunal
 655 Bay Street
 Floor 15
 Toronto
 M5G 1E6
 Phone: (416) 314-4500
 Fax: (416) 314-4506

The Notice must be signed and dated and include all of the following information:

1. The EBR Registry Number, the Ministry Reference Number, the Proponent's name and address to whom the instrument was issued and the location of Activity. (All available from this Registry posting)
2. A copy of any comments that were submitted on the original proposal, if comments were not submitted, an explanation of your interest in seeking leave to appeal the decision is required.
3. A description of the grounds for the application for leave to appeal including information that demonstrates that:
 - (a) there is a good reason to believe that no reasonable person, having regard to the relevant law and any government policies developed to guide decisions of that kind, could have made the decision; and
 - (b) the decision in respect of which an appeal is sought could result in significant harm to the environment.
4. The portion of the instrument or each term or condition in the instrument in respect of which the leave to appeal is applied for.
5. The grounds on which you intend to reply at the hearing, in the event that the leave to appeal is granted, in relation to each portion that you are seeking leave to appeal.

Contact:

Northern Region
 Permit To Take Water Coordinator
 Ministry of the Environment
 Operations Division
 Northern Regional Office
 435 James Street South
 Floor 3
 Suite 331
 Thunder Bay Ontario
 P7E 8S7
 Phone: (807) 475-1734

Location(s) Related to this Instrument:

Vermillion River - Stobie Dam
 Address: Lot: 10, Concession: 6, Greater Sudbury,
 City, District of Sudbury

DISTRICT OF SUDBURY

Additional Information:

The following government offices have
 additional information regarding this Decision.
 To arrange a viewing of these documents please
 call the Ministry Contact or the Office listed
 below.

Northern Regional Office
 435 James Street South
 Floor 3
 Suite 331
 Thunder Bay Ontario
 P7E 8S7
 Phone: (807) 475-1205

The documents linked below are provided for the
 purposes of enhancing public consultation.
 All links will open in a new window

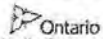
1. Permit To Take Water

[View Proposal](#)

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Instrument Proposal Notice:

Proponent: Domtar Inc.
Domtar Inc.
1 Station Road
Espanola Ontario
Canada P5E 1R6

Instrument Type: Permit to take water - OWRA s. 34

EBR Registry Number:
010-6083

Ministry Reference Number:

8062-7PEQDD

Ministry:
Ministry of the Environment
Date Proposal loaded to the Registry:
March 05, 2009

Keyword(s): Water

The comment period for this proposal is now over.

Description of Instrument:

This proposal is a renewal of Permit to Take Water No. PTTW 97-P-5001 from Domtar Inc. for the purpose of controlling water level in Vermillion lake through Vermillion River Stobie Dam The taking of water will be as follows:

Source of Water: Vermillion River/Lake

Purpose of Water Taking: controlling water level

Since the purpose of this application is to control water level in the lake the only information that can be provided is live storage capacity: 27,000,000 cubic metres

Length of Permit: up to 10 years

Public Consultation:

This proposal was posted for a 30 day public review and comment period starting March 05, 2009. Comments were to be received by April 04, 2009.

All comments received during the comment period are being considered as part of the decision-making process by the Ministry of the Environment.

Please Note: All comments and submissions received have become part of the public record.

Contact:

Northern Region
Permit To Take Water
Coordinator
Ministry of the Environment
Operations Division
Northern Regional Office
435 James Street South
Floor 3
Suite 331
Thunder Bay Ontario
P7E 6S7
Phone: (807) 475-1734

Location(s) Related to this Instrument:

Vermillion River - Stobie Dam
Address: Lot: 10, Concession:
6, Greater Sudbury, City,
District of Sudbury

DISTRICT OF SUDBURY

Additional Information:

The following government offices have additional information regarding this Proposal. To arrange a viewing of these documents please call the Ministry Contact or the Office listed below.

Northern Regional Office
435 James Street South
Floor 3
Suite 331
Thunder Bay Ontario
P7E 6S7
Phone: (807) 475-1205

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Tab 3



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Information Notice:

Title:

Water Management Plan for the Spanish-Vermilion River System -
Review of Draft Plan

EBR Registry Number: XB03E2016

Ministry:

Ministry of Natural Resources

Date Information Notice loaded to the

Registry:

November 21, 2005

This notice was originally published July 4, 2003 at the Invitation to Participate stage. It was republished April 8, 2004 at the Review of Background Information / Scoping Report stage, July 18, 2005 at the Review of Options Report stage and November 21, 2005 at the Review of Draft Plan stage.

This notice is for your information. The Environmental Bill of Rights does not require this notice to be placed on the Environmental Registry, however, section 6 of the Act does allow the Environmental Registry to be used to share information about the environment with the public.

Rationale for Exemption to Public Comment:

In December 2000, the Lakes and Rivers Improvement Act (LRIA) was amended to establish the authority for the Minister of Natural Resources to order dam owners to prepare management plans in accordance with guidelines approved by the Minister and to operate in accordance with the plans (Registry Number AB00E4001). This authority in relation to the preparation, amendment, approval and enforcement of management plans was further amended in June 2002, LRIA s. 23(1.1) (Registry Number AB02E6001).

This proposal is considered to be a proposal for an instrument under the EBR; however, it is not prescribed by Ontario Regulation 681/94 as a classified proposal for purposes of the EBR. Therefore, MNR is not required to post water management plans on the Environmental Registry.

MNR is voluntarily posting this Information Notice on the Environmental Registry for information purposes to advise interested parties of the formal public consultation opportunities being carried out in accordance with the requirements of the Water Management Planning Guidelines for Waterpower (WMPG) (Registry Number PB01E6004). To participate in that consultation process, the public is invited to submit comments to the contact person identified below.

Description:

A water management plan (WMP) is now being prepared for the Spanish/Vermilion river systems. The WMP will address the management of flows and levels in the river as they are affected by the operation of waterpower and water control projects owned by Domtar Inc., INCO Ltd, the Ministry of Natural Resources, the City of Greater Sudbury, Falconbridge Limited and the Nickel District Conservation Authority. Development of the new Water Management Plan (WMP) will incorporate knowledge gained from the review process.

The Spanish River is situated in the northeastern part of the Province

Contact:

Eric Cobb, Acting Fish and Wildlife
Planning Biologist
MNR Sudbury District Office
3767 Hwy. 69 South,
5
Sudbury Ontario
P3G 1E7
Phone: (705) 564-7857
Fax: (705) 564-7879

Additional Information:

The following government offices have additional information regarding this Notice. To arrange a viewing of these documents please call the Ministry Contact or the Office listed below.

Government Information Centre
900 Bay Street
MacDonald Block Lobby
Toronto Ontario
M7A 1N3
Phone: (800) 267-8097

MNR Espanola Area Office
P.O. Box 1340, 148 Fleming Street
Espanola Ontario
P3E 1R8
Phone: (705) 869-4298

MNR Chapleau District Office
190 Cherry Street
Chapleau Ontario
P0M 1K0
Phone: (705) 864-1710

of Ontario, on the North Shore of Lake Huron. It is the largest drainage basin draining into Lake Huron, draining an area of 13,500 km². The river is a total of 260 km long, with 13 water- controlled lakes on the system. Many of the controlled lakes are used as storage for downstream waterpower interests as well as other recreational uses. The main tributaries are the Agnes, Wakonassin, Snake, Aux Sables, Moncrieff Creek and the Vermilion River. The headwaters of the Spanish River originate near Biscotasing at the height of land, which is the drainage divide between the Great Lakes St. Lawrence watershed and the Arctic watershed. The river passes through the towns of Nairn Centre, Espanola and Massey before reaching its outlet at the town of Spanish on Georgian Bay's North Channel.

MNR Sudbury District Office
3767 Hwy. 69 South, Suite 5
Sudbury Ontario
P3G 1E7
Phone: (705) 564-7876

MNR Gogama Area Office
P.O. Box 129
Gogama Ontario
P0M 1W0
Phone: (705) 894-2000

The Vermilion River originates in the Township of Frechette in the rugged northern Precambrian ridges of the watershed, and flows in a southerly direction through the Onaping Watershed. It follows a meandering path with some water flows passing through the City of Greater Sudbury and continues to its confluence with the Spanish River southwest of Wabageshik Lake. It has a total length along its main channel of approximately 247.8 km and encompasses a drainage area of 4,369.31 km².

The documents linked below are provided for the purposes of enhancing public consultation.
All links will open in a new window

INCO Ltd., Domtar Inc., the Ministry of Natural Resources, the City of Greater Sudbury, Falconbridge Limited and the Nickel District Conservation Authority operate a series of dams used for flood control, water level retention, recreational use, power generation and wastewater management on these rivers. Domtar Inc. owns and operates the Espanola Generating Station at the Town of Espanola. It also owns a number of dam structures. INCO Ltd. owns three generating stations on the Spanish River including Big Eddy Generating Station, High Falls 1 and 2 Generating Stations, and the Nairn Generating Station. INCO Ltd. also owns the Wabageshik Generating Station on the Vermilion River, which joins the Spanish River east of Espanola. A more detailed listing of structures and facilities will form part of the Terms of Reference for the Spanish-Vermilion Water Management Plan. The Draft Terms of Reference can be viewed at the MNR District Offices in Sudbury, Espanola, Chapleau and Gogama.

1. <http://www.ene.gov.on.ca/envregistry/016790ep.htm>
2. <http://www.mnr.gov.on.ca/MNR/waterpower/>
3. http://192.75.156.68/DBLaws/Statutes/English/90103_e.htm

These two rivers have a wide variety of uses including canoeing, swimming, camping, sport and commercial fishing, hunting, cottaging and other activities. There are numerous tourist operators including campgrounds, rental cottages and cabins, commercial hunting and fishing lodges, and canoe outfitters. Mining and forestry activities take place on lands within the watershed.

The WMP will be developed by a planning team having representation from the above waterpower companies the City of Sudbury, Nickel District Conservation Authority, as well as representation from area First Nation communities. A steering committee, comprised of representatives of the above dam owners, agencies and First Nations will provide direction to the planning team. A public advisory committee, with representation from across the river basin, has been established to provide advice on the development of the water management plan, and to assist in public consultation.

Purpose of the Notice:

This notice advises the public that a water management planning process is underway for the Spanish-Vermilion River System. The Draft Plan for the Spanish/Vermilion Rivers WMP is now available for public review at the locations and during the times and dates set out below.

Decision:

This notice will be updated, as new information becomes available.

Other Information:

In addition to the government offices listed below, information concerning the Spanish/ Vermillion Rivers WMP may also be obtained from:

Jim Cunningham

INCO Ltd.

Power Department

18 Rink Street

Copper Cliff, Ontario POM 1N0

(705) 682-5203

Ted Petrus or Lynne Gibson

Domtar Inc.

1 Station Road

Espanola, Ontario P5E 1R6

(705) 869-2036 ext. 279 and 215

All comments and submissions will become part of the public record. All comments and contact (name and address) information received may be forwarded to the project applicant unless specifically requested otherwise. For more information on the collection and use of the personal information, contact Don Mark, District Information Specialist, Sudbury District (705) 564-7360.

Supporting documentation for this proposal is found at the Web-links shown at the bottom of this notice for the following:

- EBR posting PB01E6004: Water Management Planning Guidelines for Waterpower
- Water Management Planning Guidelines for Waterpower
- Lakes and Rivers Improvement Act

Other Public Consultation Opportunities:

Formal public consultation is planned to occur at five stages during the preparation, review and approval of this plan. Direct written notice will be given to certain individuals and organizations at each stage of the planning process; individuals and organizations may request to be added to this list, which is updated at each stage. Public notice is given through advertisements in local newspapers.

The following is a summary of public consultation (dates beyond Stage Four are tentative):

Stage One - Invitation to Participate: July 2 - August 13, 2003

Stage Two - Review of Background Information/Scoping Report: May 10-13, 2004

Stage Three - Review of Options: July 21, 26 & 28, 2005

Stage Four - Review of Draft Plan:

Monday December 5, 2005

Knights of Columbus Hall
399 Mead Street
Espanola, ON
2 PM - 4 PM and 6 PM - 8 PM

Tuesday December 6, 2005
Dowling Leisure Centre
79 Main St. West
Dowling, ON
2 PM - 4 PM and 6 PM - 8 PM

Thursday December 8, 2005
MNR Gogama Area Office
5 Low Ave.
Gogama, ON
1 PM - 3 PM

Stage Five - Approved Plan: Winter/Spring 2006

Local native communities with traditional uses in the area may request a separate native consultation process. Consultation with Aboriginal communities in the planning area will be a separate and parallel process from stakeholder and public consultation.

Future dates for formal discussions concerning First Nations and Water Management Planning have yet to be finalized. It will be the responsibility of MNR to ensure that ongoing discussions continue and that First Nations involvement in planning continues.

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Tab 4



[Home](#) > [Registry](#) > 10-01-54731

Bridge Rehabilitation, Vermilion River, DesMarais Road, City of Greater Sudbury

[\(Document List\)](#)

DECISION

August 23, 2010 -- Transport Canada has taken the following course of action on August 19, 2010 relating to the screening of the *Bridge Rehabilitation, Vermilion River, DesMarais Road, City of Greater Sudbury*. The authority may exercise any power or perform any duty or function with respect to the project because, after taking into consideration the screening report and taking into account the implementation of appropriate mitigation measures, the authority is of the opinion that the project is not likely to cause significant adverse environmental effects.

Implementation of mitigation measures is required for the project to address:

- birds and/or their habitat
- fauna at risk (as defined under the Species at Risk Act)
- fish and/or their habitat
- flora at risk (as defined under the Species at Risk Act)
- air quality
- climate change
- noise levels
- water quality

A follow-up program for this project was not considered appropriate. Circumstances where a follow-up program would typically be warranted are outlined in the Agency's Operational Policy Statement regarding Follow-up Programs.


For more information, please contact:

Linda Beaulieu
A/Supervisor Environmental Assessment
Environment and Engineering
Ontario Regional Office, Joseph Shepard Building
Toronto M2N 6A5
Telephone: 416-952-0475
Fax: 416-952-0514
Email: EnviroOnt@tc.gc.ca

and refer to CEAR reference number **10-01-54731**

Document List

Document Date

 Most recent update

☐ **Initial publish date**

Refresh

[Aug 23, 2010]	Decision
[Aug 23, 2010]	Environmental Assessment Report
[Apr 27, 2010]	Notice of Commencement

Date Modified: 2010-12-13

Tab 5

2011

Ontario Waterpower Association Membership Directory





Generator

Company Vale Canada Inc.

Contact Jim Eddy, General Manager Energy –
North Atlantic Region
Power Department, Ontario Operations
Jim.Eddy@vale.com
1 Rink Street
Copper Cliff, Ontario P0M 1N0

Telephone (705) 682-5772

Fax (705) 682-6887

Website *www.inco.com*

Service Generator

Description Vale Canada Inc. is a nickel mining and refining company which owns and operates four hydraulic plants on the Spanish River and one plant on the Vermilion River in the Sudbury area. The rivers were created about 11,000 years ago during the recession of the Wisconsin Glacial Period with generation development occurring between 1906 and 1929, in a combination of 25 cycle and 60 cycle machines. The combined watersheds drain an area of approximately 12,400 square kilometres, the upper reach being the divide to the Arctic watershed and emptying southward into Lake Huron. The generation plants are embedded in a privately owned distribution system and are used to offset energy requirements drawn from the provincial grid.

Site Information Package (SIP) for the Wabageshik Rapids Project, Vermilion River 2CF12.
Application Number: WSR-2007-008

1. Listing of “Identified Aboriginal Communities” and local Aboriginal Communities and Preliminary Interest and/or Concerns

Identified Aboriginal Communities for Business to Business Relationship	Preliminary Interest and/or Concerns
Atikameksheng Anishnawbek (Whitefish Lake FN)	Notification letter provided to community, no further communication has occurred. Letter received from WFL dated Dec. 16, 2010, expressing interest in the proposed projects on the Vermilion River.
Sagamok Anishnawbek	Notification letter provided to community. District meeting with Sagamok on Nov. 4, 2010, MNR agreed to consider Sagamok as an identified Aboriginal Community.
Local Aboriginal Communities	Preliminary Interest and/or Concerns
Wikwemikong Unceded Indian Reserve	Notification letter provided to community, no further communication has occurred.
Whitefish River First Nation	Notification letter provided to community, no further communication has occurred.
Sudbury Metis Council	Notification letter provided to community, no further communication has occurred.
North Channel Metis Council	Notification letter provided to community, no further communication has occurred.

2. Maps

Applicable Maps / Tables	Included as Attachment
Values map produced from MNR natural resource values database	MNR_VALUES_vermilion.pdf

3. Information

Land-Use		
Site Feature	Additional Information	Applicable Map
Aboriginal Values and Traditional Activities		
Cultural Heritage Values	Ontario Parks may have additional information.	
Access Points	As identified on map	
Access Road Location	As identified on map	
Forest Access Roads	2010 Forest Management Plan for the Northshore Forest. Plan can be viewed at MNR Espanola office or at NorthShore Forest Management Co. Small map attached showing planned road corridor and harvest areas.	
Existing Mining Tenure or Claims	See ClaimsMap website, as per link below.	
Canoe Routes/Portages	As identified on map	

Land Tenure	As identified on map	
Petroleum		
Aggregates	As identified on map	
Forestry	As identified on map	
Commercial Fishing Zones		
Other Industrial/ Commercial Activities		
Protected Areas	As identified on map	
Trails (snowmobiling, skiing, hiking)	As identified on map	
Transmission Line Route Location	As identified on map	
Trapping, Baitfish Harvesting and Bear Management Agreement Activities	As identified on map	
Resource Management Plans	2010 Forest Management Plan for the Northshore Forest. Plan can be viewed at MNR Espanola office or at NorthShore Forest Management Co. Small map attached showing planned road corridor and harvest areas.	
Existing Water Management Plan(s)	The Spanish/Vermilion Water Management Plan is in the final stages of development. Further information can be obtained from MNR District office.	
Wild Rice Harvesting		
Generic Waterpower Lease Agreement (WPLA)	Generic WPLA template is attached.	
Existing MNR infrastructure i.e. dams, bridges which may be impacted – decommissioning requirements		

Natural Environment		
Site Feature	Additional Information	Applicable Map
Invertebrate and Invertebrate Habitat	As identified on map	
Fish species present and Fish Habitat	As identified on map. All 'red stars' indicating 'sensitive values' on map, in the vicinity of Wabageshik rapids represent fish spawning areas.	
Special Concern / Threatened / Endangered or Extirpated Species (Aquatic/Terrestrial)	Meeting in September 2010 (MNR, NRSI and WESA) addressed natural heritage aspects of the site, including species-at-risk and other fish and wildlife.	
Wildlife species present and Wildlife Habitat	Large wetland exists between Elizabeth Lake and Brazil Lake.	
Other Habitat Considerations	As identified on map. Large wetland exists between Elizabeth Lake and Brazil Lake.	
Provincial Significant Wetlands	There are no known PSWs in the area of the proposed site.	
ANSI (Area of Natural & Scientific Interest)		
Significant Woodlands		
Water Quality		
Flow Regime Characteristics		
Areas of Known Erosion		
Lake Trout Lakes	As identified on map	

MNR Water Control Structure (if applicable)		
Site Feature	Additional Information	Applicable Map
Existing Operation		
Dam Safety		
Structural Integrity		

Note: The Ministry will require that the successful Applicant assume full responsibility for the maintenance, operational control, long-term structural integrity and liability for the MNR water control structure.

4. Information Gaps

Land-Use	
Site Feature	Information Gap

Natural Environment	
Site Feature	Information Gap
	<p>The legend identifies a number of values for which MNR does not actively conduct surveys. These include: mast producing areas, migration corridors, staging areas for deer and waterfowl, calving/fawning sites for deer and moose, fish migration routes and wild rice stands. Any information depicted would be incidental rather than the result of inventory work.</p> <p>The provided resource values map displays known information only and does not imply that particular values do not exist on the landscape.</p> <p>Sturgeon and other fisheries resources: limited data and knowledge exist for fisheries resources in the lower reaches of the Vermilion River.</p>

MNR Water Control Structure (if applicable)	
Site Feature	Information Gap

5. Potential Stakeholders

Site Feature	Potential Stakeholders
The following local area organizations may have an interest in the proposed project:	Espanola District Snowmobile Club
	Espanola Game & Fish Protective Association
	Espanola Planning Board
	Espanola Snowmobile Club
	Foster-Truman Local Roads Board
	Lake Panache Campers' Assoc. Inc.
	North Shore Anglers & Hunters
	OFAH Zone D Anglers/Hunters
	THE TOWNSHIP OF NAIRN & HYMAN
	Town of Espanola

	West Bay Panache Conservation Assoc.	
	West Bay Panache Lake Campers Association	
	North Shore Forst Management Company	
	Domtar Inc	
	Wabageshik/Beaver Lake Group	

6. Flow Metrics Data

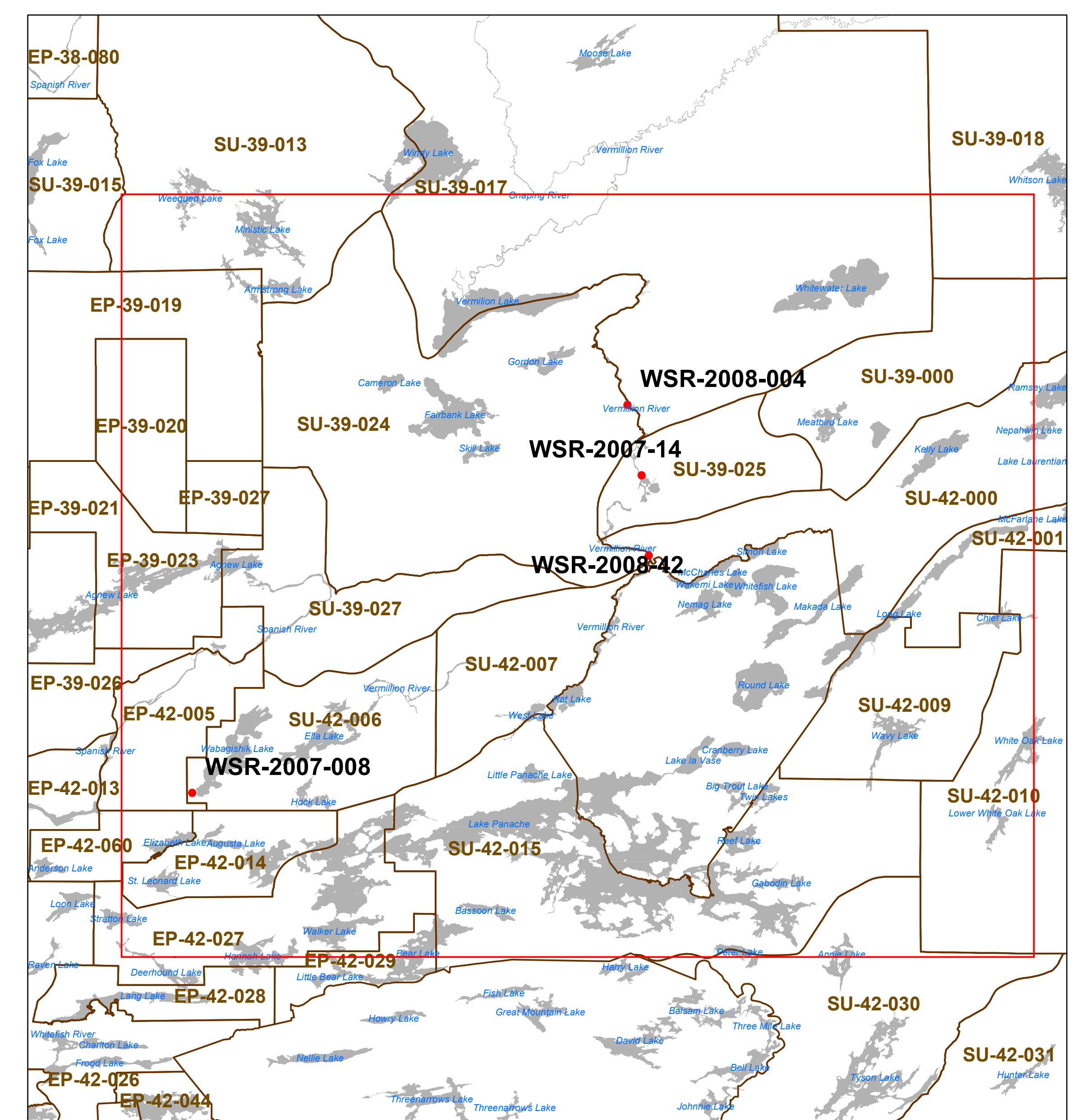
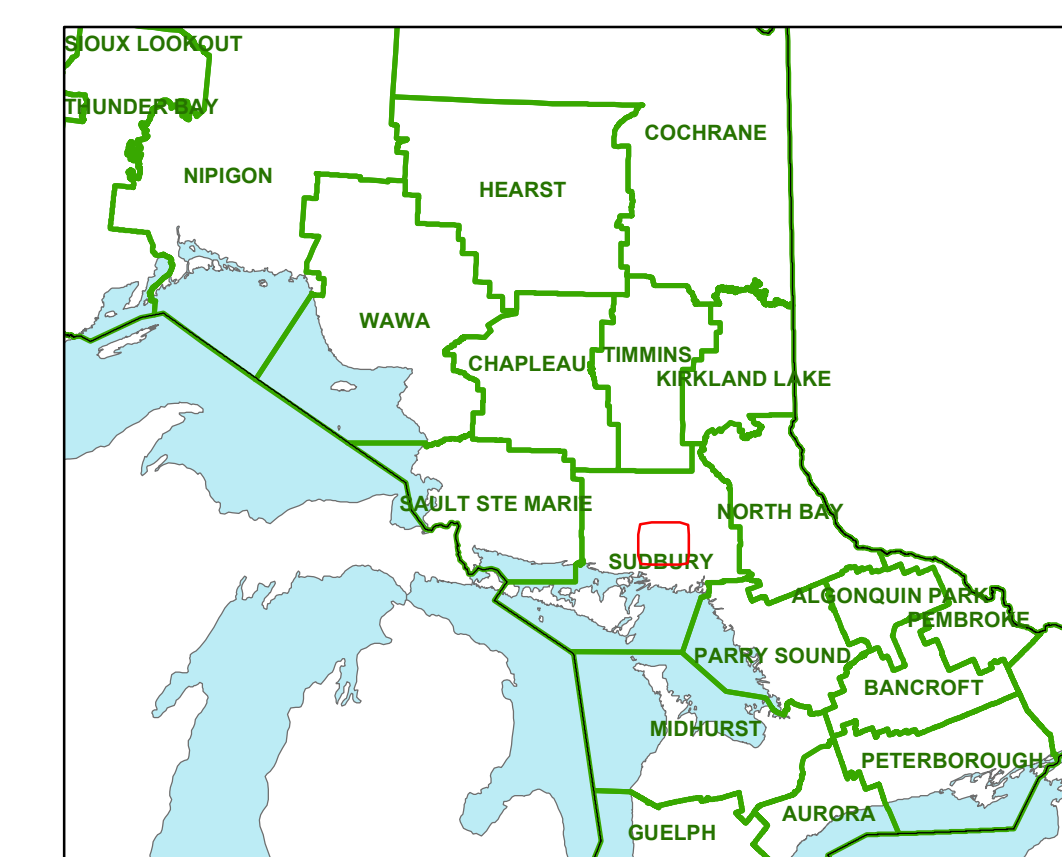
A Flow Metrics Sheet, as produced by MNR's Regional Hydrologist, is attached.

7. Potential Permits and Approvals

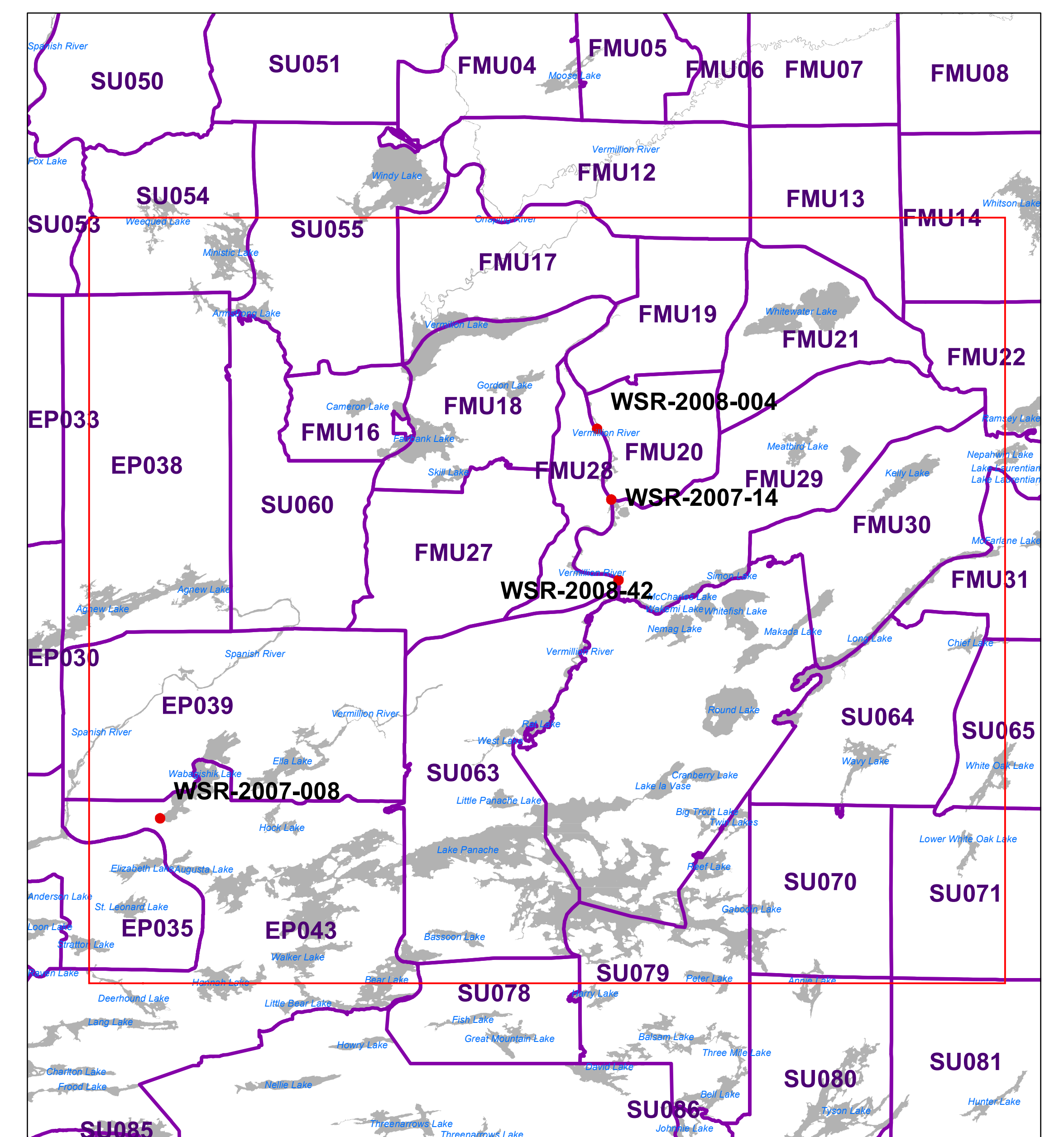
Permits and Approvals
Class Environmental Assessment for Waterpower Projects – Ministry of Environment (MOE)
Environmental Assessment Requirements – Canadian Environmental Assessment Agency
Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects (Class EA – RSFD) – Ministry of Natural Resources (MNR)
Permit to Take Water – (MOE) (OWRA)
Ministry of Environment C of A (Sewage Works)
Work Permit under the <i>Public Lands Act</i> – (MNR)
Land Use Permit under the <i>Public Lands Act</i> – (MNR)
Lakes and Rivers Improvement Act Approval – (MNR) – Location Approval and Plans & Specification Approval
Lakes and Rivers Improvement Act – (MNR) – Dam Operations Plan, Water Management Plan Approval
Crown Easement under the <i>Public Lands Act</i> – (MNR)
Water Management Planning Requirements – (MNR)
Burn Permit under the <i>Forest Fire Protection Act</i> – (MNR)
Authorizations under the Fish and Wildlife Conservation Act to destroy beaver dams, dens of furbearing mammals or bears and the nests of eggs of birds. – MNR
Licence of Occupation of Crown Land under the <i>Public Lands Act</i> – MNR
MNR Waterpower Lease Agreement
Archaeological Approvals – Ministry of Tourism and Culture
Fisheries Act Approval – Fisheries and Oceans Canada (DFO)
Blasting Approval in aquatic environment – (DFO)
Fish Habitat Authorizations under the <i>Fisheries Act</i> – (DFO)
Navigable Waters Protection Act Approval – Approval for Works (Coast Guard)
Approvals for water crossings – Fisheries and Oceans Canada
Temporary Magazine Licence, required for purchase and storage of explosives for blasting – Natural Resources Canada
Approval for Construction within Navigable Waters – Canadian Coast Guard
Navigable Waters Protection Act Approval – Transport Canada
Ministry of Labour Notice of Project
Ontario Energy Board Generator's Licence
Hydro-One Customer Impact Assessment
IESO System Impact Assessment
Approvals to connect to IESO transmission grid
Interconnection Agreement with Hydro One
Landowner agreements for access
Leases or Agreements for lands for the transmission lines or for flooded areas
Building Permits issued by the local Municipality
Other Federal, Provincial and/or Municipal permits or approvals as required
Note: Additional information requirements may be identified through the Waterpower Class EA and other approval processes.

8. Additional Considerations

-Mineral claims/tenure (including oil and gas): review of ClaimsMap (http://www.mndm.gov.on.ca/mines/lands/claimap3/default_e.asp) to determine activities on the site; search at registry office(s) to determine content of leases
-Access, flooding and transmission needs: additional Crown and/or private lands may be required; proponent must obtain all landowner permissions and should apply for any additional Crown land as early as possible
-Milestones: will be defined in A of R letter
-Class Environmental Assessment for Waterpower Projects: further information available through the Ontario Waterpower Association (http://www.owa.ca/)



Bear Management Areas



Trapline Areas



5255 Yonge St., Suite 1200, North York, ON M2N 6P4
tel 416-590-9362 fax 416-590-9955 www.xeneca.com

September 6, 2013

OEL-Hydrosys.
PO Box 430 - 3108 Carp Road
Ottawa, ON
K0A 1L0

Re: Zone of Influence (ZOI)

To whom it may concern,

The Class Environmental Assessment for Waterpower Projects (Class EA), as put into place in 2009, introduced the topic of ZOI as a specific aspect of the EA process. The exact definition is (see p.85, "Class Environmental Assessment for Waterpower Projects", OWA, guidebook, second edition, March 2011):

- ***"Zone of Influence – immediate area beyond the site directly affected by the project."***

Extensive dialog with agencies has occurred since 2010 with respect to the interpretation of the ZOI on all Xeneca projects, including Wabagishik. Aspects such as how to properly define the upstream extent, the lateral extent and the downstream extent of ZOI have been thoroughly examined. Operating Plans, mapping and surveys, bathymetry, hydraulic, hydrology, thermal, sedimentation/erosion, water quality and aquatic and terrestrial biological studies as well as comprehensive hydraulic models were prepared to inform the various discussions.

On June 6, 2013, MNR provided Xeneca with written advice on how to address this matter (see copy of text provided in attached Schedule 1.) The advice adopts the above EA definition along with advising that other aspects of the Class EA process be considered in the delineation of ZOI. In particular, the advice states:

- *"MNR would expect a proponent to clearly describe in the final Environmental Report (ER) the methodology used to delineate the ZOI boundary and, in situations where the ZOI does not cover the entire extent of hydrologic alteration resulting from the proposed development, rationalize why a stretch of river was not assessed or consulted on and how it came to its determination that the change to the hydrological regime does not cause an impact to any of the features or values of interest within MNR's mandate."*

Specific consideration has been given to the definition of ZOI and the MNR advice of June 6, 2013. The following sections outline how the requirements were met in the assessment process.

Background on Upstream ZOI:

The Wabagishik project involves the construction of a dam at a location approximately 800 meters downstream of the natural outlet of Wabagishik Lake. The dam will create a headpond extending upstream from the dam to the outlet of Wabagishik Lake. Once created, the headpond will be at the same water level as Wabagishik Lake.

To stakeholders and recreational users, the proposed headpond will look like part of the lake. Watercraft will be able to navigate from the lake to the dam without obstruction except for the natural shoal that will continue to exist below the water surface at the outlet of the lake. However, for purposes of the environmental assessment, the footprint of the man-made headpond consists only of the 800 meters of newly inundated area.

Once operational, any modification of flow that affects the headpond also affects the lake. Xeneca has proposed to carry out daily operation whereby more water is released during daytime hours than during night-time hours. This aspect is described in detail in the Operating Plan in the ER. This operation will cause both the headpond and the lake level to fluctuate throughout the day. Xeneca has firmly committed in the EA to limit such fluctuations in the lake to +/- 5 centimetres (approximately +/- 2 inches) from the natural daily lake level.

Xeneca has further committed to follow the natural change in lake level of about 1.5 meters throughout the year. Therefore, no monthly or seasonal modification from natural lake levels is proposed or required for the operation of the project. The engineering method for compliance with this commitment is described in the Operating Plan document in the ER. The attached graph shows an illustration of both the natural lake level throughout the year and the amount of daily variation that can occur due to daily operation.

For the purposes of the EA process and public consultation, Xeneca defined the upstream ZOI to include the area inundated by the proposed headpond and the area of the lake affected by daily water level fluctuations. Maps, reports and communications to agencies, the public, and Aboriginal Communities, including poster boards and the ER document reflect this information accordingly. Xeneca believes this approach to defining the upstream ZOI is consistent with the MNR definition of ZOI and respectful of potentially affected stakeholders.

For the purposes of impact assessment, the ER distinguishes between the headpond and Wabagishik Lake as components of the upstream ZOI as they have the potential project effects on each differ. For the headpond, consideration was given to the impact of inundation and the related conversion from terrestrial and riverine habitats to lake-like habitat as well as operational effects associated with water level fluctuations. Also considered was any potential impact on riparian or adjacent land owner rights (although in this case, land adjacent to the headpond does not include private land.) Effects on recreational uses (i.e. snowmobile trails, hunting, trapping, fishing, hiking, canoeing and camping) have also been considered. For the lake, consideration was given to potential impacts related to daily level fluctuations as they relate to ecological components or recreational uses. In addition, the commercial interests of the Lorne Falls generation plant at the upstream end of the lake were also considered. For the lake, daily water level fluctuations on riparian land rights were also considered.

Background on Downstream ZOI (DZOI):

Due to the proposed daily operation of Wabagishik, flows and levels downstream of the project will be modified from natural conditions. Throughout the day, the same total volume of water will be released as would have occurred under natural conditions. However, a larger portion of the water will be released during the day than at night. The result is that a flow alteration occurs downstream of the project that must be considered in the determination of the Downstream Zone of Influence (DZOI) extent.

The downstream reach of the Vermilion River enters the headpond of Domtar Dam at a location known as Graveyard Rapids, approximately 3 km downstream of the proposed Wabagishik project. At 5 km downstream, the Vermilion River flows into the Spanish River. Hence, the confluence of the Vermilion River and Spanish River lies within the headpond of Domtar Dam. Domtar Dam is located on the Spanish River a short distance further downstream in the Town of Espanola. There are existing power generation facilities upstream of the Domtar headpond on both the Spanish River (Nairn Falls Dam) and the Vermilion River (Lorne Falls Dam.) The Domtar Dam itself has a generating station and is actively operated on a daily basis such that the headpond levels are maintained within an approved range of fluctuation or "Operating Band." The existing operation of Domtar Dam, as it relates to level impacts upstream and flow variability downstream, defines the existing condition from which any additional flow alteration is assessed.

The existing condition from Graveyard Rapids to Domtar Dam consists of daily changes in water levels that are related to a combination of factors, including natural changes in flows, operating releases from upstream water control structures and the daily operation of Domtar Dam itself.

Extensive engineering work and hydraulic modeling has been done to define the scope and extent of the downstream flow alteration of the proposed project and in the context of the rather complex existing natural and man-made conditions. Specifically, the following work was undertaken:

- The proposed operation and flow alteration at Wabagishik was defined in detail in the Operating Plan document. The daily operating profiles were developed, defining how the facility will operate under a wide range of natural inflow conditions [See Annex I of the Final ER for the Proposed Operating Plan & Water Management Plan Amendment Wabagishik Rapid Small Waterpower Project (Draft), Ortech Consulting Inc. July 2013.]
- Hydraulic modeling studies were carried out to determine the variability in flows and levels that would occur downstream and how quickly the alteration would attenuate with distance downstream (See Annex I of the Final ER for the following studies: Ontario South Hydro HEC-RAS Inundation Mapping Vermilion River – Wabagishik Rapids, Canadian Project Ltd, March 29, 2012; Vermilion River Site #6 – Wabagishik Rapids HEC-RAS Unsteady Flow Modelling, Canadian Projects Ltd., July 10, 2012 and Vermilion River Site #6 – Wabagishik Rapids Additional Peaking Scenarios - Hydraulic Modeling, Canadian Project Ltd. , June 24, 2013.)
- Engineering analysis (included in Annex I of the Final ER) and consultation with regulators and Domtar (included in Appendix C and D of the Final ER) was carried out to assess impacts on the Domtar Dam headpond located downstream. Special operating restrictions were developed to mitigate potential operational impacts on Domtar Dam. Specifically, Xeneca has committed to not alter flow in a manner that would cause the headpond of Domtar Dam to move outside of its compliance Operating Band (see Annex I for the Evaluation of Flow Fluctuations at Domtar Dam due to Wabagishik Rapid GS Operations, Xeneca Power Development, March 12, 2013.)

- A statistical analysis was carried out in accordance with a scientific methodology provided by MNR to determine if the residual flow alteration related to the proposed operation of Wabagishik is statistically significant compared to the flow alterations under existing conditions downstream of Domtar Dam. The results show that the alteration related to the proposed Wabagishik project is less than the existing condition downstream of Domtar Dam.
- Consideration was given to concern from both MOE and MNR about the potential for cumulative effects downstream of Domtar Dam, whereby a flow alteration resulting from the operation of Wabagishik could be additive to the flow alteration occurring under existing conditions at Domtar Dam. It was determined that flow alterations at Domtar Dam are limited by the physical limitations of the facility. As a result, the maximum flow alteration occurring at Domtar Dam is the same under existing conditions and under the assumption of cumulative effects of the proposed project.
- Consideration was given to an agency concern that a cumulative effect might occur when Domtar Dam operates at less than the maximum flow alteration. It was determined that it is possible that on certain days a flow alteration could occur downstream of Domtar Dam that would be larger than under existing conditions. Such an increased alteration would be dependent on operating decisions made by Domtar Dam and beyond the control of the proposed Wabagishik project. Within the definition of ZOI, this scenario is not consistent with the definition of “directly affected”. It was further determined that even if such an operating decision were to occur at Domtar Dam, it would not be significantly different from existing condition and always within the maximum alteration occurring under existing conditions.
- Consideration was given to an agency concern that under certain low flow conditions, a shortfall of available flow might result, thereby forcing a compliance problem for the dilution of wastewater effluent downstream of the Domtar Dam. Xeneca agreed to special operating conditions for such flows, or alternatively, to enter into an operating agreement with Domtar such that a shortfall of available flow would not occur at any time. These commitments are reflected in the Operating Plan.

For the purposes of the EA process and public consultation, Xeneca defined the DZOI to include the 5 km river reach downstream of the proposed Wabagishik project ending with the confluence with the Spanish River. This location is within the headpond of Domtar Dam and includes Graveyard Rapids. Operating Plans, mapping and surveys, bathymetry, hydraulic, hydrology, thermal, sedimentation/erosion, water quality and aquatic and terrestrial biological studies as well as comprehensive hydraulic models and the Environmental Report itself were prepared to inform the various discussions with regulatory agencies, the public and aboriginal communities. Studies clearly show that the proposed operation will not directly affect flows and levels beyond this DZOI. Xeneca believes this approach to the definition of the DZOI to be consistent with the Class EA definition of the ZOI and respectful of potentially affected stakeholders.

River Use and Property Owners within ZOI:

Extensive consultation has occurred with those engaged in activities within the ZOI and property owners within the ZOI (detailed in Appendix D of the Final ER.) Two commercial facilities are potentially affected: the Lorne Falls generating station at the upstream end of Wabagishik Lake and the Domtar Dam facility downstream of the proposed project. Extensive consultation has occurred with the owners of both facilities and bilateral negotiation has occurred on avoidance of potential negative impacts and indemnification of any unexpected effects. Xeneca has committed to agencies to make best efforts to

seek a signed agreement prior to issuance of permits, or, alternatively, to take self-impose additional operating constraints as outlined in the Operating Plan. To date, Vale has indicated agreement with letter of intent. A Domtar mitigation letter is currently in draft form, and is in process pending the results of a third-party review of the Operating Plan.

Several private property owners exist along the shoreline of Wabagishik Lake. Extensive consultation has occurred to ensure that owners understand the proposed operation (i.e. maintaining normal lake levels but with a possible +/- 5 centimetre operating band.) Xeneca is not aware of any unresolved concerns by upstream property owners regarding the proposed operation.

Private property exists adjacent to the DZOI. One of the properties includes a permanent residence and two others are seasonal recreational properties. Extensive consultation has occurred with these land owners. The representatives of one of the properties has repeatedly expressed opposition to the project, including concerns about low water levels, construction noise and the visual impact of having to see the dam. The latter two issues were addressed by moving the dam location 255 meters upstream from its original location. The concerns on water levels were addressed by committing to maintain minimum water levels downstream as well as by constraining the change in daily levels due to operation (see the Operating Plan in Annex I of the Final ER.) Hydraulic modeling was carried out to verify that the proposed commitments are technically achievable (Annex I of the Final ER.) The proposed operating constraints are well within the normal range of levels experienced under existing conditions. There two other riparian landowners in proximity to the project did not have issues with the proposed project.

As such, legal riparian issues do not exist regarding the proposed water levels.

Rationale beyond DZOI:

Considered were the potential alterations to flows and levels downstream of the DZOI (i.e. beyond 5 km downstream of the proposed project) to the upstream side of Domtar Dam. As outlined in the background section above, this location represents the confluence with the Spanish River and lies in the existing headpond of Domtar Dam. Although the hydraulic models show that small alteration to water levels could occur in Domtar Dam due to the operation of the proposed project, it was determined that this impact is not material for the following reasons:

- Existing conditions downstream of Domtar Dam were assessed. It was determined that the existing condition downstream of Domtar Dam involves daily variability in flows and levels due to the existing operation of Domtar Dam.
- The headpond of Domtar Dam is operated within a compliance based Operating Band. Xeneca has committed to return to run-of-river operation if, at any point, the operating band of the Domtar dam is exceeded. This will ensure that there will never be a situation where water levels are outside of the existing condition. Xeneca believes that this mitigation fully addresses the definition of ZOI.
- Aspects other than flow alteration were considered that could potentially impact beyond the DZOI. Water temperature, water quality and sediment were examined. None of these aspects suggested a significant effect within the DZOI, therefore it was concluded that they would not impact the river beyond the DZOI. Please see Annex I for reference.
- The commitment by Xeneca to further constrain operations to 6.5 cms if an agreement is not reached with Domtar further assures that this commitment will be met.

Consideration was also given to the agency concern on possible impacts beyond Domtar Dam as noted in the "Background on Downstream ZOI" section above. Although this part of the river may not be directly affected by flow alterations made by Xeneca's Wabagishik GS, the significance of any indirect flow alterations was considered. Specifically the following aspects were contemplated:

- Any potential indirect effect on effluent dilution downstream of Domtar Dam has been adequately addressed with operating restrictions and commitments made in the ER.
- No impact on riparian or adjacent property can occur downstream of Domtar Dam as any cumulative alterations in flow are within the range of existing conditions.
- No indirect aquatic impact can occur as any cumulative alterations in flow are within the range of existing conditions.

Without an alteration outside of existing conditions outside of the ZOI, it was concluded that there is no impact on MNR mandates (i.e. users, property owners, land use, aquatic/terrestrial habitat and recreational/commercial activities) and that no further habitat studies or consultations are required beyond the proposed ZOI. Prior to issuance of permits, MNR will be able to review the commitments to ensure that their mandate has been satisfied as proposed in the ER.

Effects Assessment within ZOI:

Detailed assessments were carried out within the ZOI to establish existing baseline conditions. A comprehensive assessment was carried out considering the proposed impacts of the project footprint, construction and operation on the existing environmental conditions. A detailed effects and mitigation analysis is contained in the ER.

Extensive consultations were held with agencies in 2010, 2011, 2012 and 2013. The advice provided was carefully considered and any technical comments were assessed and responses provided. A complete summary of the agency consultation has been included in the Final ER (in Appendix C.)

To Xeneca's knowledge, there are no outstanding items remaining from the agency consultation on the effects assessment within the ZOI. Further, the MNR advice of June 6, 2013 was respectfully considered in the EA process. Accordingly, the impact assessment process is believed to be complete and all requirements of the Waterpower Class EA process have been fully met.

Very best regards,



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Schedule 1 – Copy of MNR Guidance Provided to Xeneca

MNR Communication on Zone of Influence for Projects Planned under the

OWA Class EA for Waterpower Projects

- MNR respects the Zone of Influence (ZOI) definition contained in the OWA Class EA for Waterpower Projects (the Class EA.) MNR encourages proponents to discuss with/seek clarification from OWA, if required, on how to apply the definition either generally or within the context of a particular project.
- MNR will continue to use this definition, the general guidance contained in Section 2.5 of the Class EA (“The Environment Affected and the Expected Range of Effects”) and MNR’s 2010 interim guidance for “Field Data Collection for Waterpower Projects” to inform our discussion with proponents on how to delineate for each waterpower project an appropriate ZOI to enable the proponent to adequately describe the environment affected and the range of effects for the purposes of the Class EA
- MNR will continue to use the above guidance in conjunction with the broad purposes as set out in Section 2 of the Lakes and Rivers Improvement Act to ensure that in approving the location of the project/facility the operational requirements/constraints, flooding rights, mitigation to reduce impacts, compensation measures to address impacts and monitoring requirements have been adequately identified.
- MNR will continue to work collaboratively with proponents to meet the intent of Section 5.0 of the Class EA to identify opportunities to create a process that facilitates coordination with and integration of other legislative and regulatory requirements. In keeping with a coordinated approach, MNR recommends that all requirements of the LRIA, ESA and PLA be considered prior to and throughout the EA process.
- MNR recognizes that the Class EA is the primary planning and public engagement framework for waterpower proposals. Consistent with the Class EA, proponents are ultimately responsible for determining the required ecological data collection requirements with consideration being given to advice provided by MNR. It is the proponent’s responsibility to determine the potential ZOI (i.e. project scope) under the Class EA.
- If MNR and a proponent cannot come to a consensus on a final ZOI during the EA process, MNR would expect a proponent to clearly describe in the final Environmental Report (ER) the methodology used to delineate the ZOI boundary and, in situations where the ZOI does not cover the entire extent of hydrologic alteration resulting from the proposed development, rationalize why a stretch of river was not assessed or consulted on and how it came to its determination that the change to the hydrological regime does not cause an impact to any of the features or values of interest within MNR’s mandate. Inclusion of this rationale within the ER will help MNR make a determination as to whether or not sufficient information has been collected to allow MNR to make informed permitting decisions.

06/06/13

Wabageshik GS - Natural Lake Level & Plant Operation

