

Technical Bulletin

MAINTAINING WATER MANAGEMENT PLANS



Ministry of Natural Resources and Forestry

2016

The Lakes and Rivers Improvement Act (LRIA) provides the Minister of Natural Resources and Forestry with the legislative authority to govern the design, construction, operation, maintenance and safety of dams in Ontario. The Lakes and Rivers Improvement Act Administrative Guide and supporting technical bulletins have been prepared to provide direction to Ministry of Natural Resources and Forestry staff responsible for application review and approval and guidance to applicants who are seeking approval under Section 14, 16, 17.2 and 23.1 of the LRIA. All technical bulletins in this series must be read in conjunction with the overarching Lakes and Rivers Improvement Act Administrative Guide (2011).

Cette publication hautement spécialisée *Lakes and Rivers Improvement Act Maintaining Water Management Plans Technical Bulletin* n'est disponible qu'en anglais conformément au Règlement 671/92, selon lequel il n'est pas obligatoire de la traduire en vertu de la Loi sur les services en français. Pour obtenir des renseignements en français, veuillez communiquer avec le ministère des Richesses naturelles et des Forêts au 1-800-667-1940.

Table of Contents

1.0 Introduction

- 1.1 Purpose
- 1.2 Legislative and Regulatory Context

2.0 Water Management Plan Maintenance

- 2.1 Consideration of New Dams

3.0 Amendments to Water Management Plans

- 3.1 Objective of the WMP Amendment Process
- 3.2 Amendment Framework
 - 3.2.1 Aboriginal and Treaty Rights
 - 3.2.2 Far North Act
- 3.3 Amendment Request Process
 - 3.3.1 Amendment Request
 - 3.3.2 Amendment Screening
 - 3.3.3 Review of Assessment Results
- 3.4 Ordering an Amendment
- 3.5 Amendment Preparation
 - 3.5.1 Consultation and Engagement Requirements for Major Amendments
 - 3.5.2 Consultation and Engagement Requirements Where EA applies
- 3.6 Amendment Submission
- 3.7 Amendment Review
 - 3.7.1 Requests for Additional Information
- 3.8 Issuance of Decision

4.0 Standing Advisory Committees

5.0 Monitoring and Reporting

- 5.1 Compliance Monitoring Programs
- 5.2 Data Collection and Effectiveness Monitoring Programs

6.0 Implementation Report

Glossary of Terms

Appendix A: Water Management Plans

List of Figures

Figure 1: Water Management Plan Amendment Process

1.0 Introduction

1.1 Purpose

This Technical Bulletin provides policy direction for the long term maintenance of those existing simplified and complex Water Management Plans (WMPs) prepared according to the Ministry's 2002 *Water Management Planning Guidelines for Waterpower*. This Technical Bulletin also establishes policy direction on new requirements that all WMPs must adopt.

This Technical Bulletin replaces the 2002 *Water Management Planning Guidelines for Waterpower* and its Appendices, with the exception of its application in the circumstances described in Section 2.0.

Section 23.1 of the LRIA provides the Ministry with the authority to require a dam owner(s) to prepare a plan for the operation of a dam, or require that an amendment be prepared for an existing plan for the operation of a dam.

WMPs prepared under LRIA Section 23.1 are the Ministry's primary tool for ensuring that operations of waterpower facilities and their associated water control structures provide for the purposes of the Act, and that there is a long term mechanism in place for adaptive management.

1.2 Legislative and Regulatory Context

Water Management Planning in Ontario

With passage of the Energy Competition Act in 1998, Ontario became subject to a competitive electricity market.

At that time, most waterpower facilities had been operating for decades, with their operating regimes influenced over the years by a number of factors. The absence of a formal public planning framework or environmental assessment process when most of these facilities were initially built, often resulted in inconsistent or unclear trade-offs between environmental, social and economic interests. Concerns raised about the effects from the operation of those facilities were often addressed on a site by site basis.

With an open competitive energy market, there were concerns that the lack of regulatory controls on dam operations (e.g. flows and levels) might result in an economic incentive for waterpower operators to maximize energy production and economic benefits, at the potential expense of other social and environmental values, or change operating processes that had evolved prior to the competitive energy market.

To support the competitive market, the LRIA was amended in 2002 to create a regulatory framework for existing dam operations. The amendments established the statutory authority for the Minister of Natural Resources and Forestry to order an owner of an existing dam to prepare

or amend a management plan for the operation and maintenance of the dam, consistent with Minister approved guidelines.

To implement this legislative amendment, the *Water Management Planning Guidelines for Waterpower 2002* (WMPG) were approved by the Minister of Natural Resources and Forestry. The goal of water management planning was to contribute to the environmental, social and economic well-being of the people of Ontario through the sustainable development of waterpower resources, by managing these resources in an ecologically sustainable way. The WMPGs established a planning process for defining goals, objectives, scope and criteria for the preparation of WMPs.

Existing waterpower facilities on rivers in provincial jurisdiction were ordered to prepare plans for the management of flows and levels at their generating stations. In some instances, owners of non-power producing water control structures within the same river were required to participate in water management planning for rivers in which their dams were situated, if their dams were integral to the regulation of flows and levels.

A “complex” WMP was generally prepared for rivers with multiple waterpower facilities or control structures with significant control over water levels and flows. Complex plans typically had more than one plan proponent (dam owner or waterpower facility owner), and/or significant competing interests.

Conversely, “simplified” WMPs were prepared for sections of rivers where there were one or more waterpower facilities or water control structures that generally had limited control of water levels and flows.

WMPs describe the normal range of operating conditions, defined in terms of seasonal flows and levels for each dam within a WMP. The provisions of a WMP do not apply in the event of a declared flood, low water condition or emergency situation.

Water management planning established a planning and resource management regulatory process that provided:

- certainty and clarity on how existing structures would be managed to balance social, environmental and economic objectives of a river system;
- a forum for public discussion on regulation of operating flows and levels;
- a mechanism for long term management of water resources through monitoring and reporting;
- mechanisms for compliance;
- a systems approach to examining relationships between multiple facilities and natural resources; and
- a mechanism for adaptive management.

Many managed river systems in Ontario or sections thereof are now subject to WMPs (Appendix A) that establish “operational plans” for dams located within the plan boundary.

Planning for New Waterpower Projects

Commercialization of the provincial electricity market also triggered the need to establish a planning framework for the consideration of new waterpower facilities, or redevelopment of existing facilities. Initially, the province introduced regulation and technical guidance under the *Environmental Assessment Act* for all new electricity generation and transmission projects (Regulation 116/01). Building on that framework, in 2008, the Minister of Environment and Climate Change (MOECC) approved the Ontario Waterpower Association Class Environmental Assessment for Waterpower Projects (OWA Class EA).

The OWA Class EA is a proponent led planning process for the consideration of a waterpower project that allows proponents to assess the potential effects of a proposed project on the environment, using the best information available to inform decision making. The objective of the OWA Class EA is to help ensure that projects are planned in an environmentally responsible manner and to coordinate and integrate the multiplicity of environmental approvals and public involvement processes that are relevant to planning a waterpower project.

Regulatory requirements for the development and operation of dams and waterpower facilities have also increased since 1998. Construction of new dams and development of waterpower projects are subject to regulatory requirements of various provincial and federal agencies including: Fisheries and Oceans Canada (Fisheries Act); Transport Canada (Navigation Protection Act); Ontario MOECC (Ontario Water Resources Act) and Ontario Ministry of Natural Resources and Forestry (LRIA, Endangered Species Act, Public Lands Act, etc.).

The OWA Class EA and post-EA regulatory processes achieve the same objectives for new or expanded facilities as the water management planning process established in 2002 for pre-existing facilities, including identifying potential impacts and benefits of dam operations and establishing operating commitments. Where a new or expanded facility is not located within the geographic boundary of an existing WMP, a separate sequential water management planning process will not be required. Where a new or expanded facility is located within the geographic boundary of an existing WMP, the planning process will be limited to amending the WMP. These facilities are instead required to prepare site specific Operating Plans. Additional information on requirements for new dams is detailed in the Ministry's *Lakes and Rivers Improvement Act Location Approval Technical Bulletin (2015)*.

2.0 Water Management Plan Maintenance

All simplified and complex WMPs remain in effect. Dam owners subject to a WMP must operate in accordance with their WMP.

WMPs are long term resource management and regulatory documents that will not have an expiration date, a mandatory review or a plan term. Adaptive management of the WMP will be informed by ongoing public and First Nations and Métis community engagement or consultation, monitoring, implementation reporting and the consideration of WMP amendments as required. All simplified and complex WMPs will be amended to incorporate this direction.

All WMPs will also be amended to incorporate mandatory changes regarding plan amendments, standing advisory committees, monitoring and reporting and implementation reporting as outlined in this Technical Bulletin.

Where a plan proponent has been ordered by the Ministry under LRIA Section 23.1 to prepare a WMP in accordance with the 2002 WMPG, and the WMP has not been approved as of the date of approval of this Technical Bulletin, plan preparation and approval shall continue to be subject to the 2002 WMPG, while incorporating new requirements outlined in this Technical Bulletin.

2.1 Consideration of New Dams

Where a new dam is proposed within the geographic boundaries of a WMP, the dam owner is responsible for coordinating their operations with existing dam owners upstream and/or downstream of the dam, through the preparation of a Dam Operating Plan.

The new dam must operate in a manner consistent with the approved flows and levels and operating regimes of the other dams on the river system in the WMP, unless otherwise negotiated with the plan proponent(s) and approved as an amendment to the WMP.

New dams and their associated Dam Operating Plans will be incorporated into the WMP through a minor amendment, in accordance with the process outlined in this Technical Bulletin. Consideration of social, economic and environmental interests regarding the new dam, coordination with other dam owners and alignment of the new dam with the existing WMP will be considered through the OWA Class EA and addressed through the preparation of the Dam Operating Plan. The dam owner will be considered a plan proponent and must operate in accordance with the WMP.

3.0 Amendments to Water Management Plans

WMPs are long term documents which may require periodic amendments to: ensure that the plans remain current; implement adaptive management; and/or provide clarity and certainty on how water levels and flows are managed.

Any change to an approved WMP requires an amendment. All amendments require approval by the Ministry. Where the Ministry decides to amend a WMP, the Ministry retains the authority to amend a plan at any time, or issue an Order for the plan proponent(s) to amend the WMP.

All WMPs will be amended to follow the amendment framework detailed in this section.

3.1 Objective of the WMP Amendment Process

Any party with an interest in the WMP may bring forward issues to the attention of plan proponents, the Ministry or members of the Standing Advisory Committee where applicable. Resolution of issues may be achieved through a variety of actions, one of which may be an amendment process.

The amendment process is intended to ensure that plan proponents apply due diligence when considering amendments proposed by any party and that potentially affected individuals or groups are given sufficient opportunity to participate in the consideration of proposed amendments.

The amendment process provides a framework for screening amendment requests, developing the proposed amendment and Ministry review and decision on the amendment.

Plan proponents are responsible for:

- receiving amendment requests;
- assessing amendment requests based on criteria;
- proposing amendments; and
- preparing amendment proposals for Ministry review.

Where a WMP has multiple plan proponents, they will work together when assessing amendment requests and preparing amendment proposals (where necessary). In circumstances where the amendment request/proposal is specific to a single plan proponent, that plan proponent will be responsible for assessing the amendment request and preparing the amendment proposal (where necessary).

The Ministry will review proposed amendments to ensure that plan proponents screen and process amendments consistent with this Technical Bulletin.

Any person may request a WMP amendment. An amendment request may be submitted as a result of matters regarding dam safety, public safety, dam operations, the results of monitoring programs, construction of new dams or alterations to existing dams, or in response to local issues related to the management of water levels and flows.

Individuals submitting an amendment request shall clearly articulate concerns and potential solutions. Amendment requesters shall participate in good faith opportunities undertaken to obtain Indigenous community, public and stakeholder input on proposed major amendments and should consider their ability to contribute towards those engagement opportunities.

Temporary operational changes beyond a dam's approved operating limits that are required to complete construction or operational maintenance do not require a WMP amendment. In these circumstances, dam owners will notify the Ministry in advance of the temporary operational change to outline the expected duration and rationale for the work. Construction or operational maintenance may require LRIA Section 16 approval and/or other regulatory approvals. Dam owners should also seek to notify potentially affected parties.

Changes to a dam's operating regime may also be subject to various other regulatory requirements. Approval of a WMP amendment under the LRIA does not relieve the proponent from compliance with other applicable federal, provincial, municipal, conservation authority or other agency regulatory requirements. Proponents are responsible for ensuring that all applicable requirements have been met to support dam operations. Should a WMP amendment be necessary as the result of other regulatory requirements, consultation and engagement on the WMP amendment should be coordinated and/or integrated with the consultation and engagement requirements of the other regulatory process.

3.2 Amendment Framework

Changes to WMPs can range from simple text corrections to significant modifications to an operating regime. In order to provide flexibility for a range of potential amendment requests, two categories of amendments (minor and major) exist. The categories are mainly differentiated by the expected level of public interest in the proposed change to the WMP.

WMP amendments may be subject to public and First Nations and Métis community engagement or consultation, dependent on the category of amendment, as detailed in Section 3.5 of this Technical Bulletin.

Minor Amendments

Minor amendments are changes that do not affect the operating regime, plan objectives, are not expected to generate a high level of public interest, and are not expected to adversely affect Aboriginal and treaty rights. Minor amendments will not be subject to public and First Nations and Métis community engagement or consultation beyond discussions with the SAC (where applicable). Minor amendments may include:

- changes in the presentation of information, factual or text corrections;
- changing a WMP to include a new dam and its associated Operating Plan (Section 2.1 of this Technical Bulletin); or
- changes required to adopt requirements outlined in this Technical Bulletin;

Major Amendments

Major amendments are more significant in scale such as: changes to the operating regime or plan objectives, changes that could be expected to generate a high level of public interest or changes that might adversely affect Aboriginal and treaty rights. A major amendment will be subject to public and First Nations and Métis community engagement or consultation.

For major amendments where equivalent consultation and engagement has previously occurred through another process (e.g. previous notification that a change will be required, or amendments required after public consultation in other planning processes), the Ministry may exercise discretion to process the proposed change as a minor amendment on a case by case basis.

3.2.1 Aboriginal and Treaty Rights

The Ministry respects the existing Aboriginal and treaty rights recognized and affirmed by Section 35 of the *Constitution Act*, 1982 and is committed to meeting its constitutional and other legal obligations in respect of these rights, including the Crown's duty to consult and, where appropriate, accommodate. The duty to consult is triggered when the Crown has real or constructive knowledge of the existence or potential existence of an Aboriginal or treaty right and there is a proposed Crown action or decision which may have an adverse impact on that known or asserted Aboriginal or treaty right.

Amendments to WMPs requiring approval under the LRIA may trigger the Crown's duty to consult. In some situations, the Crown may delegate procedural aspects of its duty to consult to plan proponents. Proponents are encouraged to work closely with the Ministry when seeking a WMP amendment.

3.2.2 Far North Act

The *Far North Act*, 2010, is the legislative foundation for land use planning in the Far North. Land use planning in the Far North of Ontario describes how land and water will be used while sustaining people and resources into the future. Through the development of community based land use plans, direction is provided on what land uses will be permitted in which areas.

Where an amendment is proposed to a WMP that is geographically situated within the Far North (Appendix A) and the proposal triggers requirements under the *Far North Act*, 2010, those requirements would need to be met before proceeding with the amendment. In an area with an approved community based land use plan, the proposed amendment shall be consistent with the land use direction in effect for the area. Where public and First Nations and Métis community engagement or consultation is required for a proposed WMP amendment, engagement requirements will be aligned with requirements of the *Far North Act*.

3.3 Amendment Request Process

3.3.1 Amendment Request

Plan proponents may propose changes to a WMP by submitting an amendment request to the Ministry. Third party amendment requests may also be proposed, and must be submitted to the plan proponent(s). Upon receipt of an amendment request, the plan proponent(s) will acknowledge receipt of the request in writing to the third party and notify the Ministry that a request has been received. Where the Ministry receives an amendment request from a third party, the request will be forwarded to the plan proponent(s).

Where a third party is considering submitting an amendment request, concerns or issues should first be brought to the attention of plan proponent(s) for discussion. Resolution of issues or concerns may be best achieved through alternative actions outside of the plan amendment process.

An amendment request should provide sufficient information to allow plan proponents and the Ministry to determine whether an amendment request should be investigated further. It is the responsibility of the individual(s) requesting the amendment to demonstrate that the request is credible, worthy of consideration and within the scope of the WMP and the LRIA.

An amendment request must contain at a minimum, the following information:

- a) description of the changes being requested;
- b) rationale for the changes being requested;
- c) results of any pre-consultation completed with potentially affected parties; and
- d) where changes in operations are proposed, a description of how the proposed operation changes may impact other dams subject to the WMP.

When preparing amendment requests, both plan proponents and third party requesters should consider and incorporate the criteria in Section 3.3.2 of this Bulletin.

Where plan proponents are considering submitting an amendment request to the Ministry, prior consultation with the Ministry, the SAC and where applicable, other plan proponents is recommended.

The level of detail contained within the amendment request will depend on the complexity of the changes being proposed. For changes that are less significant in nature, less detail is required, such as changes to existing text and/or tables. Proposed changes to operations that are more complex, will require that the requestor identify the potential impacts associated with the proposal.

Plan proponents are responsible for maintaining records for all amendment requests.

3.3.2 Amendment Screening

Plan proponent(s) are responsible for administering WMPs and must assess third party amendment requests to inform whether the request should proceed through the amendment process. The assessment will consider the following criteria:

- a) Is the amendment consistent with this Technical Bulletin?
- b) Is the amendment consistent with WMP objectives, or does the amendment propose a change to WMP objectives?
- c) Is there an alternative method to deal with the request rather than amending the WMP?
- d) Is the request within the scope of the WMP (e.g. plan objectives, the dam's degree of influence on flows and levels)?
- e) Is the request related to any ongoing data or effectiveness monitoring commitments?
- f) Is the request supported by other potentially affected parties?
- g) Is the amendment required to comply with other regulatory requirements?
- h) Has the amendment request been considered previously?
- i) Does the amendment have the potential to negatively affect dam safety/public safety?
- j) Does the amendment have potential impacts on socio-economic or environmental considerations?

Where an amendment request does not contain sufficient information to complete an assessment or make a recommendation to the Ministry, the plan proponent(s) will return the proposed amendment to the third party with a request for additional information.

A SAC may provide the plan proponent(s) with advice on assessing amendment requests, where a SAC exists.

When a plan proponent(s) has completed the assessment of the amendment request, written notification will be provided to the Ministry. The notification will include: a summary of the amendment request and supporting rationale; results of the assessment; a recommendation of whether the request should be further considered; and if so, the recommended category for the amendment.

3.3.3 Review of Assessment Results

The Ministry will review the plan proponent's screening results and will:

- agree with the recommendation
- request additional information or
- disagree with the recommendation.

Where the plan proponent(s) recommends against proceeding with the amendment request, and the Ministry is in agreement, the plan proponent(s) will notify the requestor of the decision with supporting rationale.

Where the Ministry agrees that the amendment request should proceed, the plan proponent(s) will develop and submit the final amendment proposal for Ministry consideration. The plan

proponent(s) will undertake any necessary planning, consultation, information gathering or other investigative activities associated with the amendment. Where the amendment is requested by a third party, the third party may be expected to support engagement activities.

Where the Ministry disagrees with the recommendation, the Ministry will discuss the proposed amendment with the plan proponent(s). The Ministry may subsequently direct the plan proponent(s) to proceed with consideration of the plan amendment.

3.4 Ordering an Amendment

When a decision is made to proceed through the plan amendment process, the Ministry may formalize the decision through the issuance of an Order to prepare an amendment or approve the amendment under the authority of LRIA Section 23.1(6). Plan proponents may also request that the Ministry issue an Order to amend the plan.

The Ministry retains the authority to require a plan proponent to undertake a WMP amendment, where the plan proponent is unwilling to consider reasonable requests or where there are significant concerns regarding a facility's operation.

When the Ministry intends to order a plan proponent to amend a Plan, the proponent will be provided with a notice of intent to issue an Order to amend the Plan prior to the issuance of the Order. Upon receipt of a notice of intent to issue an Order to amend a Plan, the proponent has 15 days to submit a request for an inquiry to the Ministry. Requests for an inquiry under the LRIA are referred by the Ministry to the Office of the Mining and Lands Commissioner (OMLC). Additional detail regarding appeals to the OMLC are referenced in the Ministry's *Lakes and Rivers Improvement Act Administrative Guide* and Section 11 of the LRIA.

3.5 Amendment Preparation

Where the Ministry has determined that a proposed amendment request should proceed, the plan proponent(s) shall prepare the final amendment proposal, including completing consultation activities or information gathering in support of the proposed amendment. Where the amendment is requested by a third party, the third party may be expected to support engagement activities. The plan proponent(s) and third party requester should discuss opportunities for collaboration in preparing the amendment.

For minor amendments, the plan proponent must engage the Ministry, other plan proponent(s) and the Standing Advisory Committee (where such exists). Public and First Nations and Métis community engagement and consultation requirements for major amendments are described in the following subsection.

3.5.1 Consultation and Engagement Requirements for Major Amendments

Plan proponent(s) and in certain circumstances third party amendment requestors, shall undertake public and First Nations and Métis community engagement and consultation when

developing a major amendment. Specific requirements shall be discussed with the Ministry in advance. The scope of consultation and engagement may vary depending on:

- scope and scale of the proposed major amendment;
- level of public, stakeholder and First Nation and Métis community interest in dam operations;
- level of potential impact on Aboriginal and treaty rights;
- potential impacts on other regulatory approvals; and
- potential impacts within the scope of the LRIA and the WMP.

Consultation and engagement approaches may include: direct written notice; open houses; information sessions; public notice; community meetings or workshops/focus groups. Sufficient opportunity for reasonable engagement shall be provided and information regarding the amendment shall be communicated in concise plain language.

3.5.2 Consultation and Engagement Requirements Where EA applies

In some instances, proposed changes to existing operations of a WMP will be subject to the *Environmental Assessment Act*, such as the Ministry's Resource Stewardship and Facility Development Class Environmental Assessment, or the OWA Class EA.

In such cases, EA Act requirements shall be completed in advance of submitting an amendment request. The plan proponent is not required, but may elect, to incorporate WMP amendment considerations during the EA Act process.

Where proposed changes are subject to an EA, the proponent may not be required to complete any additional public and First Nations and Métis community engagement and consultation in support of the proposed WMP amendment. For example, where a proponent proposes changes to operations associated with an upgrade or expansion of an existing waterpower facility which would result in an increase in nameplate capacity of 25% or more, consultation and engagement activities completed as part of the OWA Class EA process may be deemed to have provided affected parties with sufficient opportunity to comment on the proposed changes to the WMP.

A Ministry determination of whether consultation and engagement completed during the EA is sufficient for purposes of a WMP amendment shall be made as part of the Ministry's assessment of the WMP amendment screening results. Additional consultation and engagement shall not be required, unless the Ministry assesses that the EA consultation is insufficient. In these instances, the Ministry will determine the scope and scale of additional consultation and engagement necessary for the purposes of the WMP amendment.

3.6 Amendment Submission

Following completion of any applicable consultation requirements, the plan proponent(s) will provide the Ministry, other plan proponent(s) where appropriate, and any third party requesters, a copy of the final amendment proposal including:

- a) amendment request and supporting rationale;
- b) proposed changes (replacement text) as they would appear within the approved plan;
- c) map of the area affected by the amendment (if applicable);
- d) record of consultation (including engagement of the SAC) identifying the type and form of feedback sought, issues identified and steps taken by the proponent to modify the proposed amendment in response to comments (if applicable); and
- e) any other supporting information deemed applicable to the proposed amendment.

3.7 Amendment Review

All amendments to WMPs must be approved by the Ministry.

The Ministry will complete a review of the amendment submission. For proposed minor amendments, the Ministry will complete a review within 30 days of receipt of a complete submission. For proposed major amendments, the Ministry will complete a review within 60 days of receipt of a complete submission.

During and/or following the review of the proponent's amendment submission, the Ministry may with supporting rationale, request additional information required to complete the Ministry's review.

3.7.1 Requests for Additional Information

Where additional information is required, the Ministry will identify in writing the additional information requested and the rationale for the request. In such circumstances, the Ministry review timeline will be put on hold until the Ministry receives the requested information.

Upon receiving a request for additional information from the Ministry, the proponent may:

- agree to provide the additional information by the specified time;
- request a change to the specified time for submitting the information;
- request a review by the Regional Director of the required information; or
- refuse to provide the additional information.

Where the proponent agrees to provide the additional information, the Ministry may choose to keep the application on hold or return the application to the proponent, depending on the scope of the request and the time frame for providing it. This determination will be made by the Ministry through discussions with the proponent and confirmed in writing. Where an application is returned to the proponent, the review period will restart upon submission of the additional information requested.

Where a proponent objects to the information request, the proponent may within 15 business days of receiving the request, request a review of the required information by the applicable Ministry Regional Director. Upon review by the Regional Director, the Ministry will confirm the additional information required, if any, and the applicable timeframe for providing the required information in writing with the supporting rationale. Upon receipt of the written decision from the

Regional Director, the proponent has 15 business days to respond to the Ministry with their intent to comply with the request for additional information or to refuse the request.

If a proponent wishes to refuse the request (prior to or following a review of the request by the Regional Director) or fails to respond within 15 business days of notice from the Regional Director, the Ministry will issue the proponent a notice of Intent to Refuse approval of the amendment.

3.8 Issuance of Decision

In issuing a decision on the proposed amendment, the Ministry shall either:

- approve the amendment
- approve the amendment subject to changes considered advisable to further the purposes of the Act or
- refuse the amendment.

The Ministry will provide the plan proponent(s) and any third party requester, as appropriate, written confirmation of its decision and supporting rationale.

If the amendment is approved, the WMP will be revised and a record of the amendment will be appended to the approved WMP.

Where the Ministry intends to refuse an amendment, a Letter of Intent to Refuse approval of the amendment will be issued to the proponent identifying the supporting rationale and any additional measures the proponent(s) can take to address any outstanding concerns. The Letter of Intent to Refuse approval of the amendment will notify the proponent that unless the Ministry receives a request within 15 days from the proponent for an inquiry, the amendment will be refused.

Requests for an inquiry under the LRIA are referred by the Ministry to the Office of the Mining and Lands Commissioner (OMLC). Additional information on appeals to the OMLC is detailed in the Ministry's *Lakes and Rivers Improvement Act Administrative Guide*.

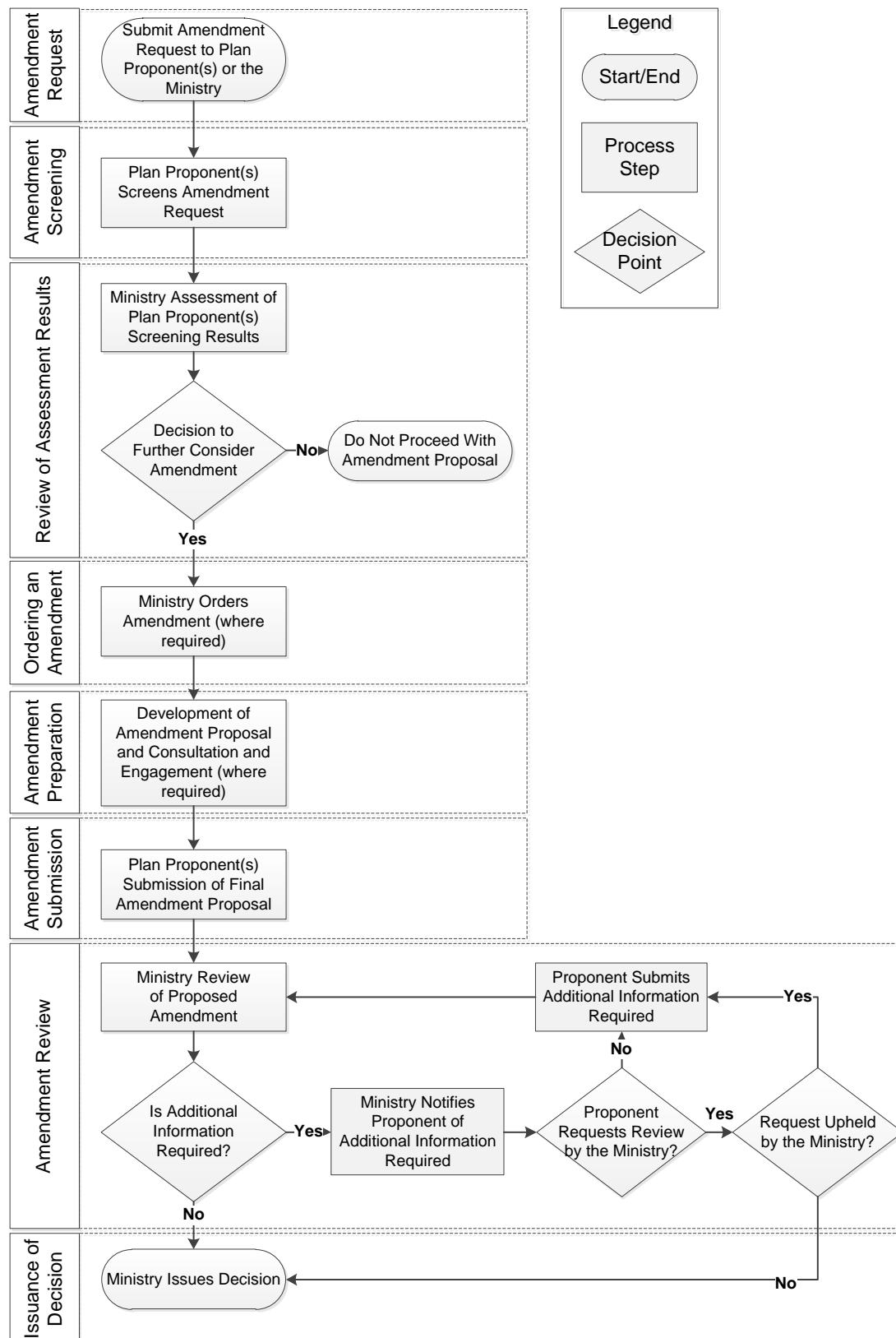


Figure 1: Water Management Plan Amendment Process

4.0 Standing Advisory Committees

Standing Advisory Committees (SAC) were originally established for complex WMPs to provide plan proponents with a mechanism for engaging the public and Indigenous communities.

Experience in Ontario since 2002 has shown that SACs have been effective and valuable in providing a mechanism for the public to contribute to the implementation of the WMP. SACs may provide advice to the plan proponent(s) on matters such as plan implementation, monitoring, communication and issues management.

Plan proponent(s) are responsible for administering the SAC, and SACs will work directly to the plan proponent(s). Where a complex WMP details specific requirements regarding the administration and roles and responsibilities of the SAC, they will be amended to reflect this direction. The Ministry will decide on a WMP specific basis what role it wishes to play in association with the SAC.

Where a complex WMP details specific requirements for a SAC, those requirements shall continue to apply, unless the WMP is amended in accordance with this Technical Bulletin. A SAC is not a mandatory requirement for complex WMPs but is recommended as a best practice. Any proposal to discontinue an established SAC should be informed by advice from the Ministry, advice from the SAC and consideration of the level of public, stakeholder and Indigenous community interest in dam operations. Where a plan proponent(s) makes this recommendation, an amendment to the WMP with appropriate rationale will be required to remove the provision for a SAC from the WMP. In such cases, there are a variety of other tools available to a plan proponent to engage the public (e.g. websites, public notice, information centres, etc.).

The role of the SAC is to serve as an advisory group, as defined through a terms of reference. The terms of reference should outline the membership, scope, duration and roles and responsibilities of the SAC and its relationship with the plan proponents.

A SAC should include representatives with a broad range of interests on the river such as Indigenous communities, riparian landowners, municipalities and interested groups.

5.0 Monitoring and Reporting

Most WMPs contain requirements for monitoring and reporting for compliance purposes, effectiveness monitoring and data collection. All simplified and complex WMPs will be amended to reflect the requirements for monitoring and reporting outlined in this section.

5.1 Compliance Monitoring Programs

A WMP includes an operating plan for each individual waterpower facility that addresses water flows and levels under normal operating conditions. Compliance monitoring relates to each plan proponent's ability to operate the facility within the defined water flows and levels outlined in the operating plan.

The components of compliance monitoring programs contained in most WMPs include self-monitoring, data reporting, incident notification and reporting, and annual compliance reports.

Self-Monitoring

Plan proponent(s) are responsible for ongoing self-monitoring of mandatory water flow and level limits, where they exist, as identified in each WMP. This activity includes collecting and maintaining the water flow and level data required to support self-monitoring and reporting. The frequency of data collection is based on the frequency of operations for the structure in question and is specified for each structure.

Where a simplified or complex WMP details specific requirements for self-monitoring, those requirements continue to apply. Amendments to these requirements will be considered through the amendment process on a WMP specific basis, taking into consideration WMP objectives and interests.

Data Reporting

WMPs may specify requirements for plan proponent(s) to report water flow and level data created for the purposes of self-monitoring to the Ministry, on a schedule specified in the WMP (e.g. weekly, monthly, annually), or when requested during compliance audits and inspections.

Where a WMP contains specific requirements for reporting of water flow and level data or information to the Ministry, this requirement shall be replaced by the requirement that proponents shall make water flow and level data available to the Ministry upon request. WMPs will be amended to incorporate this requirement.

Incident Notification and Reporting

Plan proponent(s) whose structures have a compliance framework are required to notify (within 24 hours) the Ministry of any instances where there is deviation from the mandatory water flow and level components of the WMP, in accordance with incident notification and reporting requirements outlined in the WMP. The following information, to the extent it is available at the time, should be provided in an incident notification:

- the time, date and nature of the deviation;
- the extent of the deviation;
- possible causes of the deviation;
- known or anticipated impacts associated with the deviation; and,
- steps taken or to be taken, including the timeframe, to correct the deviation.

A follow up incident report must also be submitted within a specified time frame (10 or 30 days) to provide any additional information not included in the incident notification.

Where a simplified or complex WMP details specific requirements for the notification and reporting of incidents, those requirements continue to apply. Where a compliance framework within a WMP does not detail these requirements, the WMP will be amended to incorporate requirements for notification and reporting of incidents. Amendments to these requirements may be considered through the amendment process on a WMP specific basis, taking into consideration WMP objectives and interests.

Annual Compliance Reports

Most approved WMPs contain a provision that each individual plan proponent shall submit an annual report to the Ministry summarizing the operational compliance (i.e. incident reports) for each facility. Some WMPs may also specify additional requirements to be included in the annual report, such as proposals for remediation of issues (where necessary).

Annual compliance reports will be required from all individual plan proponents, for those facilities that have an operating regime (i.e. requirements for self-monitoring of water flows and levels). Annual compliance reports will not be required for those facilities that have little to no influence on water flows and levels (i.e. no established operating regime).

Annual compliance reports will include a summary of incident reports from the previous year, including the rationale and action taken by the plan proponent. Where a WMP does not specify a requirement for an annual report for facilities that have an operating regime, the WMP will be amended to incorporate this requirement.

5.2 Data Collection and Effectiveness Monitoring Programs

Some WMPs may contain an effectiveness monitoring program, which seeks to evaluate the success of facility operations in achieving ecological and socioeconomic objectives. Effectiveness monitoring is based on adaptive management, where the availability of new information may inform changes to the WMP.

WMPs may also contain data collection programs which identify data information gaps related to the management of water flows and levels and establish actions (e.g. information gathering, local studies and monitoring) to address those gaps. In some cases the data collection program is a component of the effectiveness monitoring program.

Where a simplified or complex WMP details specific commitments for monitoring as a part of a data collection program and/or an effectiveness monitoring program, those requirements

continue to apply. Reporting on the results of data collection and/or effectiveness monitoring programs will occur through submission of the Implementation Report, outlined in Section 6.0 of this Technical Bulletin.

Changes to these monitoring programs may be considered through an amendment process on a WMP specific basis, taking into consideration WMP objectives, implementation of recommendations based on study findings, or new information.

6.0 Implementation Report

Plan proponents for all WMPs shall submit an Implementation Report every five years. For complex WMPs with multiple plan proponents, the Implementation Report shall be a collective submission from all plan proponents.

The Implementation Report shall provide plan proponents, the Ministry and interested parties with a status update on the WMP. The Report will also help to provide transparency of dam operations and help to inform adaptive management considerations. The Implementation Report is not intended to initiate a fundamental review of the WMP.

All simplified and complex WMPs will be amended to incorporate the detailed requirements for Implementation Reporting outlined in this section. The Ministry will work with plan proponents to transition to these new requirements.

The Implementation Report will include:

- summary of all amendment requests received, including the rationale for completed amendments and how proposed amendments that did not proceed were addressed;
- status of the Standing Advisory Committee where applicable;
- report on the results of the effectiveness monitoring program (EMP), if applicable, including a summary of monitoring conducted and findings, a determination of whether operations are having a negative or unintended impact, and an assessment of whether revisions to the facility operations, or to the EMP, are required; and
- status and results of any data or information collection outlined in the WMP's data collection program, if applicable, and a determination of whether revisions to the program are required.

The level of detail in an Implementation Report should be commensurate with the complexity of the WMP. For example, an Implementation Report for a complex WMP will likely include all of the above components, whereas a simplified WMP, whose operations have little to no influence on water flows and levels (i.e. no established operating regime) and no monitoring commitments, may only need to reflect a summary of all amendment requests.

Proponents shall submit the Implementation Report to the Ministry. The Ministry will not formally approve the Report; however, it will be reviewed for completeness. If the Report is not complete, the Ministry will request that additional information be provided. The Ministry may audit records used by the proponent to prepare the Implementation Report and may request any additional information to verify the information presented.

Upon confirmation from the Ministry that the Implementation Report is complete, plan proponent(s) will make the Report publicly available.

The initial Implementation Report will generally cover the timeframe of the initial term of the WMP. As WMPs are amended to incorporate Implementation Reporting requirements, the timeframe for submission of the initial Implementation Report will be determined.

Glossary of Terms

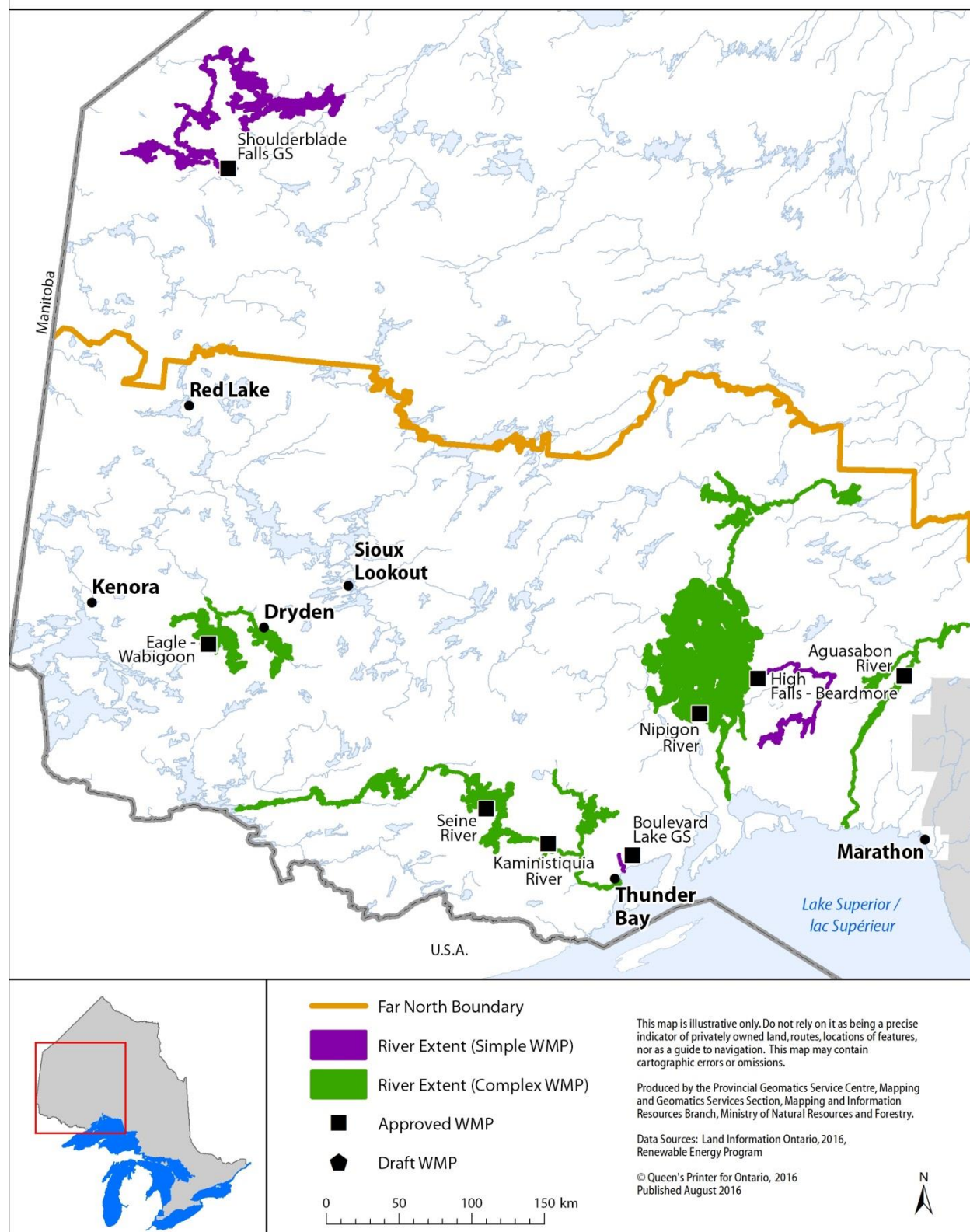
Plan proponent(s): waterpower companies and the owners of other water control structures that affect the management of water levels and flows on the river system.

Complex WMPs: plans prepared for an entire river system where there are a number of waterpower facilities or water control structures with significant control over water levels and flows or with significant issues to be resolved.

Simplified WMPs: plans prepared for a river section based on limited control over water flows and levels by waterpower facilities and water control structures, with few issues to resolve.

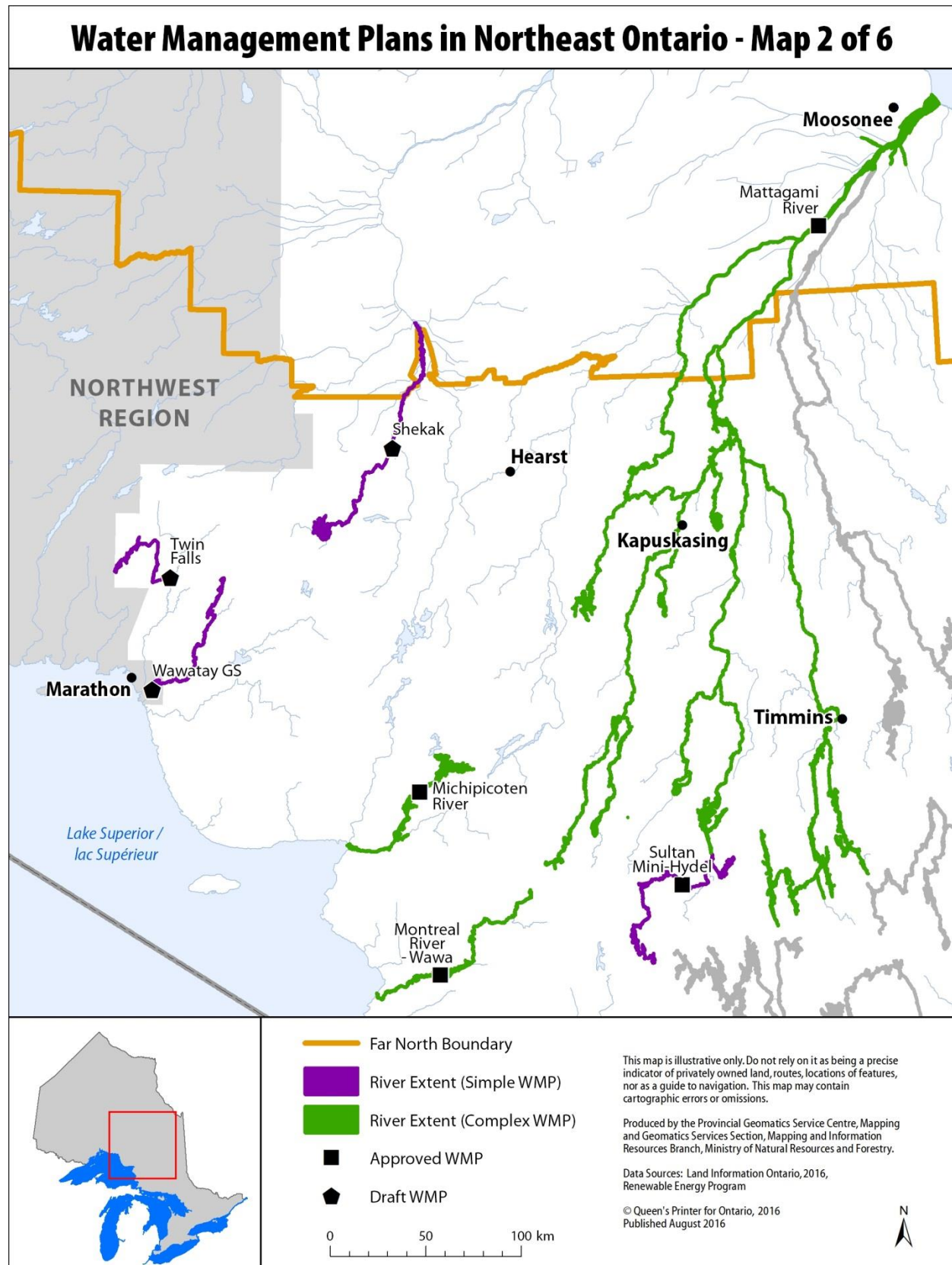
Appendix A: Water Management Plans

Water Management Plans in Northwest Ontario - Map 1 of 6



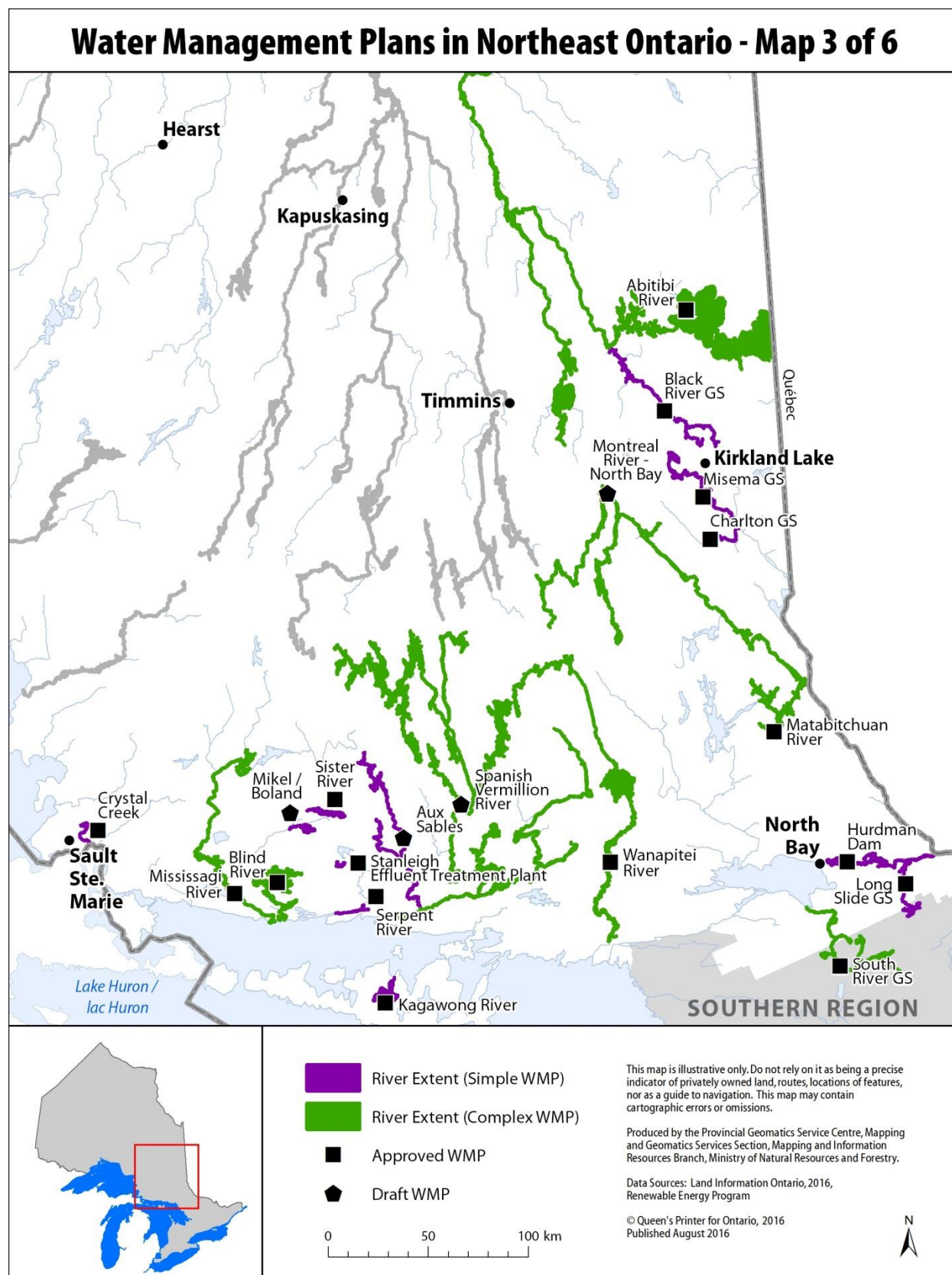
Water Management Plans in Northwest Ontario - Table 1 of 6

PLAN NAME	RIVER	PLAN TYPE
Aguasabon River	Aguasabon River	Complex
Boulevard Lake Generating Station	Current River	Simple
Eagle - Wabigoon	Eagle River & Wabigoon River	Complex
High Falls - Beardmore	Namewaminikan River	Simple
Kaministiquia River	Kaministiquia River	Complex
Nipigon River	Nipigon River	Complex
Seine River	Seine River	Complex
Shoulderblade Falls Generating Station	Severn River	Simple



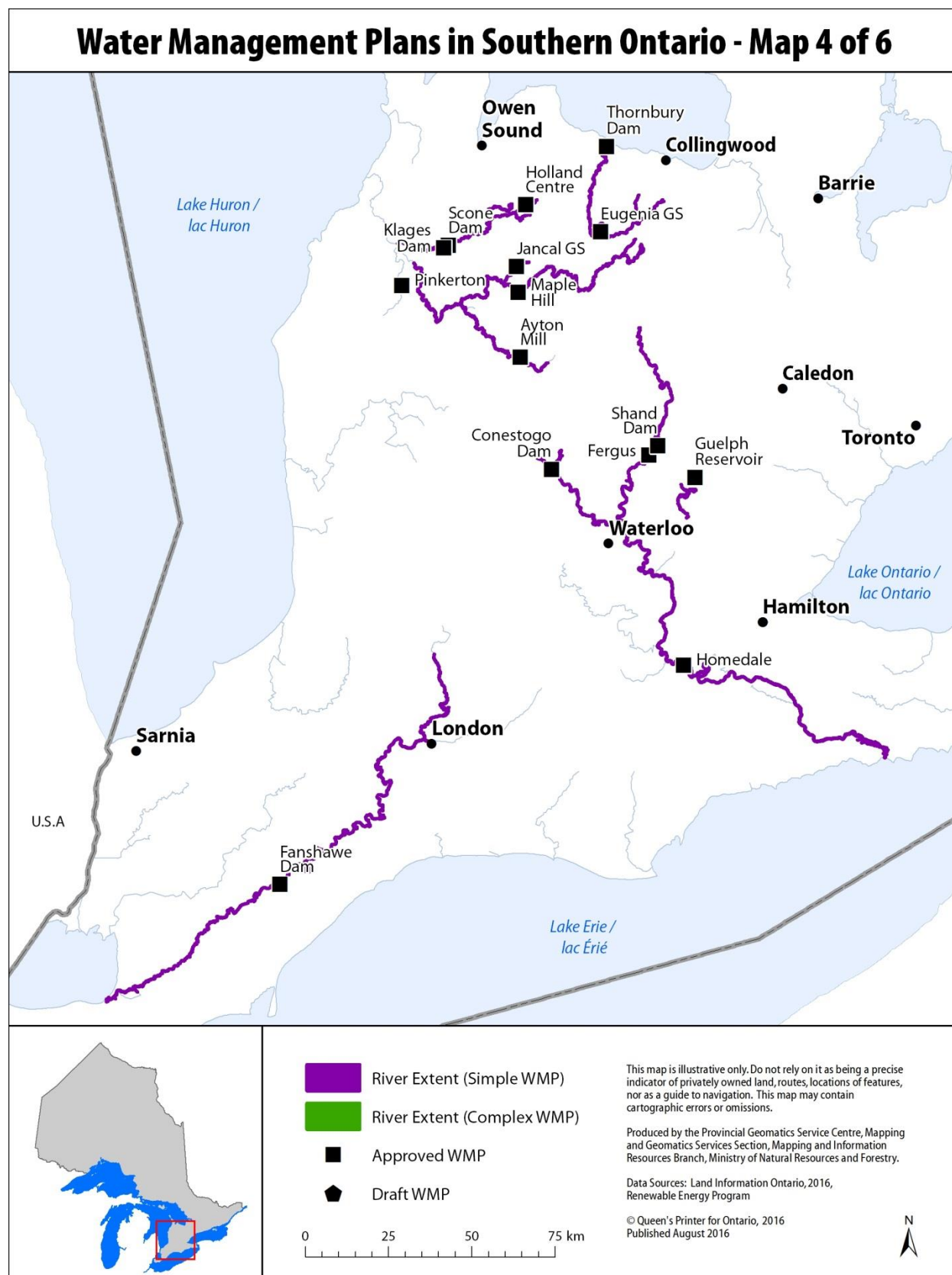
Water Management Plans in Northeast Ontario - Table 2 of 6

PLAN NAME	RIVER	PLAN TYPE
Mattagami River	Mattagami River & Groundhog River & Kapuska River	Complex
Michipicoten River	Michipicoten River	Complex
Montreal River - Wawa	Montreal River	Complex
Shekak	Shekak River	Simple (Draft)
Sultan Mini-Hydel	Wakami River	Simple
Twin Falls	Kagiano River	Simple (Draft)
Wawatay Generating Station	Black River	Simple (Draft)



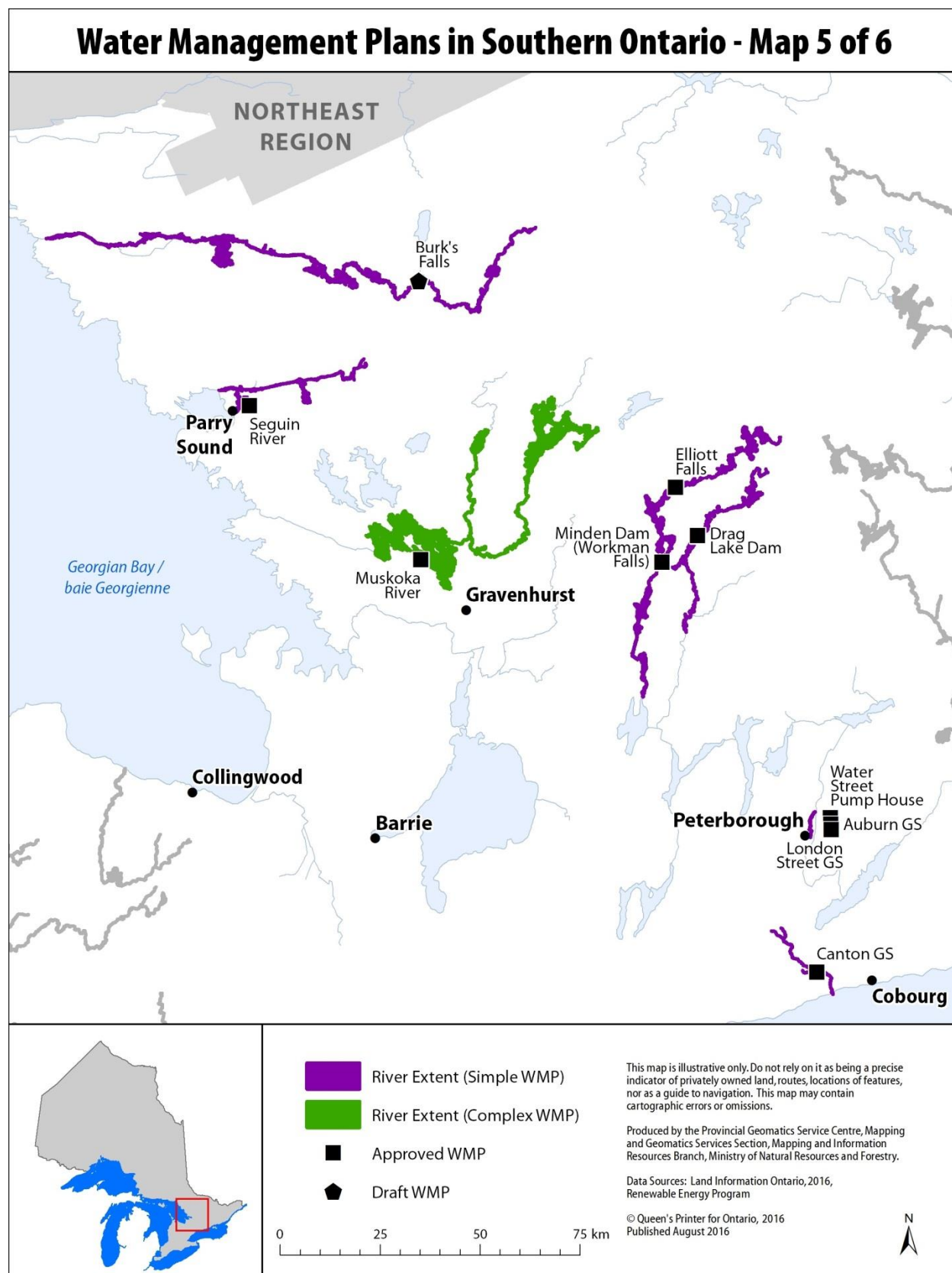
Water Management Plans in Northeast Ontario - Table 3 of 6

PLAN NAME	RIVER	PLAN TYPE
Abitibi River	Abitibi River	Complex
Aux Sables	Aux Sables River	Simple (Draft)
Black River Generating Station	Black River	Simple
Blind River	Blind River	Complex
Charlton Generating Station	Blanche River	Simple
Crystal Creek	Crystal Creek	Simple
Hurdman Dam	Mattawa River	Simple
Kagawong River	Kagawong River	Simple
Long Slide Generating Station	Amable Du Fond River	Simple
Matabitchuan River	Matabitchuan River	Complex
Mikel / Boland	Boland River	Simple (Draft)
Misema Generating Station	Misema River	Simple
Mississagi River	Mississagi River	Complex
Montreal River - North Bay	Montreal River	Complex (Draft)
Serpent River	Serpent River	Simple
Sister River	Sister River	Simple
South River Generating Station	South River	Complex
Spanish Vermilion River	Spanish River & Vermilion River	Complex (Draft)
Stanleigh Effluent Treatment Plant	McCabe Lake	Simple
Wanapitei River	Wanapitei River	Complex



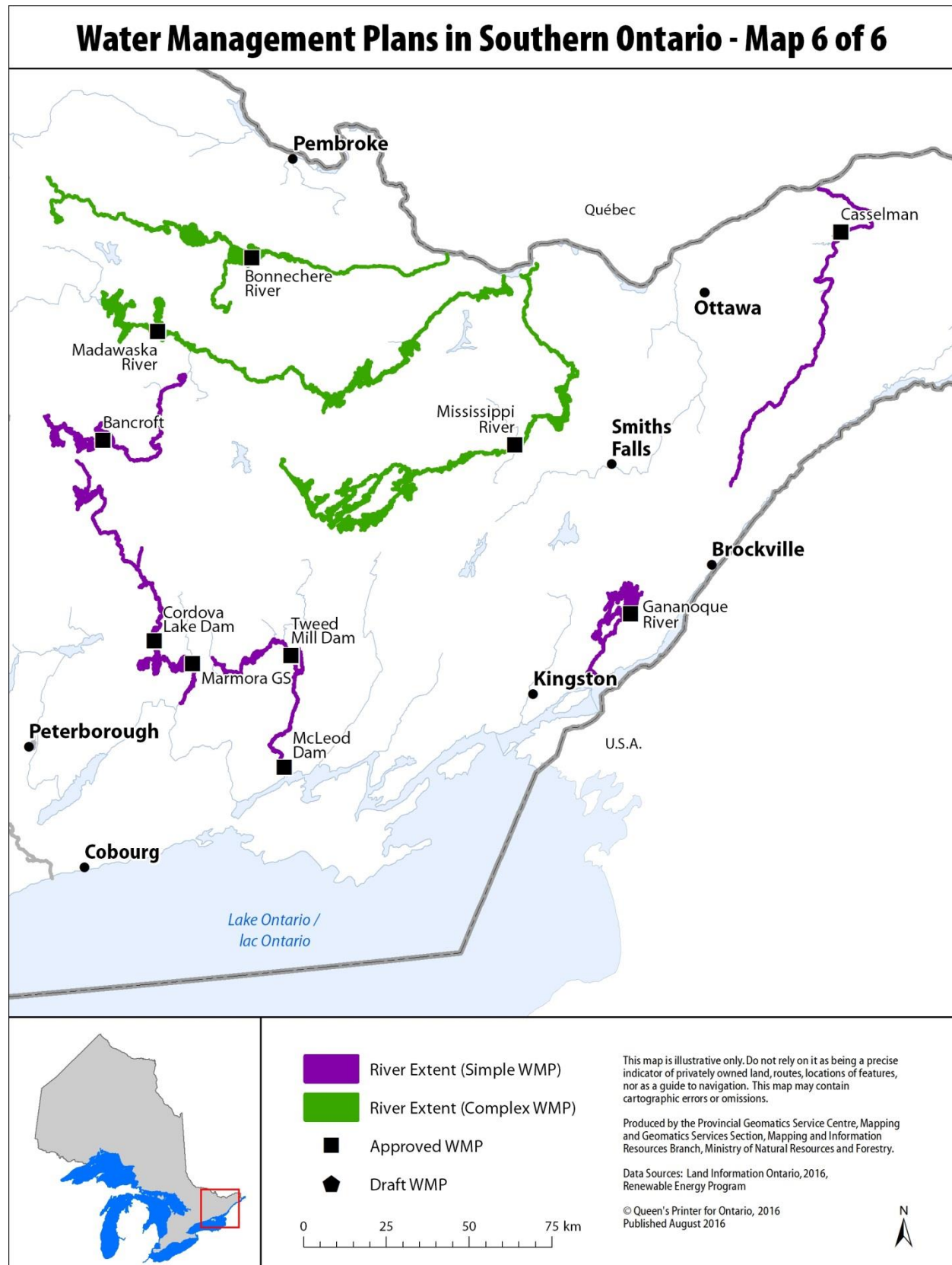
Water Management Plans in Southern Ontario - Table 4 of 6

PLAN NAME	RIVER	PLAN TYPE
Ayton Mill	South Saugeen River	Simple
Conestogo Dam	Grand River	Simple
Eugenia Generating Station	Beaver River	Simple
Fanshawe Dam	North Thames River	Simple
Fergus	Grand River	Simple
Guelph Reservoir	Speed River	Simple
Holland Centre	Hamilton Creek	Simple
Homedale	Grand River	Simple
Jancal Generating Station	Rocky Saugeen River	Simple
Klages Dam	North Saugeen River	Simple
Maple Hill	Saugeen River	Simple
Pinkerton	Teeswater River	Simple
Scone Dam	North Saugeen River	Simple
Shand Dam	Grand River	Simple
Thornbury Dam	Beaver River	Simple



Water Management Plans in Southern Ontario - Table 5 of 6

PLAN NAME	RIVER	PLAN TYPE
Auburn Generating Station	Otonabee River	Simple
Burk's Falls	Magnetawan River	Simple (Draft)
Canton Generating Station	North Ganaraska River	Simple
Drag Lake Dam	Drag River	Simple
Elliott Falls	Gull River	Simple
London Street Generating Station	Otonabee River	Simple
Minden Dam (Workman Falls)	Gull River	Simple
Muskoka River	Muskoka River & North Muskoka River & South Muskoka River	Complex
Seguin River	Seguin River	Simple
Water Street Pump House	Otonabee River	Simple



Water Management Plans in Southern Ontario - Table 6 of 6

PLAN NAME	RIVER	PLAN TYPE
Bancroft	York River	Simple
Bonnechere River	Bonnechere River	Complex
Casselman	South Nation River	Simple
Cordova Lake Dam	Crowe River	Simple
Gananoque River	Gananoque River	Simple
Madawaska River	Madawaska River	Complex
Marmora Generating Station	Crowe River	Simple
McLeod Dam	Moirs River	Simple
Mississippi River	Mississippi River	Complex
Tweed Mill Dam	Moirs River	Simple