

Towards a New Business Relationship: Waterpower on Parks Canada Agency Waterways

Report and Recommendations of the Federal Waterways Task Force

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Preamble

Background and Context

This report and its recommendations are the product of a collaborative and cooperative effort by the federal government, as represented by Parks Canada and Ontario's waterpower industry, as represented by the Ontario Waterpower Association to analyze and assess the shared opportunities and issues associated with waterpower generation and development on federal waterways. It has been prepared in the spirit of collaboration and premised on benefits to be realized by establishing long term policy and financial certainty for Parks Canada and the Ontario Waterpower industry - ultimately serving as the foundation of a "New Business Relationship" from this point forward.

In 2001, Ontario's electricity sector was restructured from a predominantly vertically integrated utility model (Ontario Hydro) to one of commercial competition. To support this transition, the province of Ontario, led by the Ministry of Natural Resources, worked directly with the waterpower industry on key questions of governance including resource allocation, resource valuation, tenure and public safety. This effort culminated in joint recommendations to the provincial government for a "New Business Relationship" grounded in public policy. In response to the recommendations, the province initially allocated new resources to develop and implement priority areas of emphasis, eventually regularizing waterpower policy and expertise within core ministries. For its part, the industry created a "single voice" organization to represent its common and collective interests – the Ontario Waterpower Association.

The Association has grown to represent more than one hundred fifty (150) companies active in the hydroelectric sector in Ontario. In addition to generators and developers, membership includes firms with environmental, legal, engineering, project management, communications and Aboriginal expertise. A core focus of the Association's mission is to advance positive and productive relationships with government.

Waterpower generation and expansion continues to be a priority for the provincial government in Ontario. As expressed in the most recent Directive from the Minister of Energy to the Ontario Power Authority (OPA):

"Hydroelectric power is a central pillar of the Government's renewable electricity portfolio. The Government wishes to see continued procurement of hydroelectric capacity. I anticipate that an updated target for installed hydroelectric capacity will be established through the review of the Long Term Energy Plan"

The OPA is currently reviewing its long-term energy plan from 2010, which will direct the procurement of electricity projects for the foreseeable future in Ontario.

Based on the success of the New Business Relationship exercise with the province, the Association brought forward to the federal Minister of the Environment, the Honourable Peter Kent, the recommendation that the successful "business" framework should be applied to the relationship between the industry and the federal

government on federal waterways administered by Parks Canada in Ontario. In 2012, with the support of the Minister's Office and leadership of Senior Management from the Parks Canada Agency, a concerted collaborative effort began to develop recommendations for a "Strategic Policy Framework" as the basis for a New Business Relationship. This initiative supports the Government of Canada's commitment to managing and developing Canada's extraordinary resource wealth in a way that protects the environment and supports clean energy projects of national or regional significance.

The Minister of the Environment as represented by the Parks Canada Agency is responsible for the administration of the Trent-Severn Waterway National Historic Site of Canada and the Rideau Canal National Historic Site of Canada. These sites are managed by Parks Canada's Waterways Directorate which includes the office of the Executive Director, and two units – one for Ontario waterways and one for Quebec waterways.

As part of its responsibilities, Parks Canada manages water levels and flows on the Trent-Severn Waterway and the Rideau Canal to achieve a variety of water management objectives including: to allow for safe boating, reduce flooding of agricultural, residential and commercial property; protect fish & wildlife habitat; support municipal water needs; provide for hydroelectric generation; and to help maintain water quality. It is important to note that on the Trent-Severn Waterway, Parks Canada receives advice on water management from a multi-stakeholder Water Management Advisory Council, of which the Ontario Waterpower Association is a member. The development of a new business relationship is in no way intended to replace the work of the Water Management Advisory Council.

The historic canals are administered under several legal authorities. The *Dominion Water Power Act* and *Dominion Water Power Regulations* are the primary authority for the use of water owned by Her Majesty the Queen in the right of Canada. For the Parks Canada Agency, the Minister of the Environment has the sole authority under the *Dominion Water Power Act* and regulations to administer the use of Parks Canada Agency land and water for the purpose of generating waterpower. This authority under the *Dominion Water Power Act* has been delegated to the Parks Canada Agency Director of Waterpower for the powers, duties and functions under the *Dominion Water Power Act* inclusive of all historic canals and National Parks situated outside the Yukon Territory, Northwest Territories and Nunavut.

As of fall 2013, the Parks Canada Agency administers twenty (20) water power licences, three (3) priority permits and twelve (12) related water power agreements. On average, the occupation of federal waterways by waterpower facilities accounts for approximately \$1.3 million¹ annually in dedicated revenue to Parks Canada's Ontario Waterways Directorate. Approximately 100MW of installed capacity is present on federal waterways in Ontario whereas installed capacity in the rest of the province is over 8000MW. This difference in scale and the desire to leverage work already completed between industry and the province factored into the decision to assess provincial comparators with the objective of achieving consistency where practical.

As part of the collaborative effort to define a New Business Relationship between industry and the federal government, key areas of emphasis include:

- Permits and licencing;

¹ Average over last 5 years (2009/10 to 2013/14)

- Resource revenues and fees;
- Site release and development; and
- Communication and information management.

To address these themes, the Parks Canada Agency and the Ontario Waterpower Association established four (4) working groups comprised of staff and members respectively, with oversight provided by a Steering Committee led by Senior Management from both organizations². As such, the recommendations represent the collective advice to the Minister of Environment with respect to the establishment and maintenance of a strategic policy framework and business relationship between the parties. Key underlying principles include:

- Investment certainty;
- Clarity in policy, guidelines, directives and standards;
- Fair return to the federal Crown;
- Transparency; and
- Consistency

Across the themes the Working Groups and the Steering Committee have recognized that Parks Canada would need to establish appropriate capacity to deliver upon the recommendations made and to maximize the return on investment. While some improvements can be made within the existing structure and resourcing of the Parks Canada Agency (e.g. bi-annual meetings), others will clearly require new capacity (e.g. site release).

The recommendations herein are presented as a complete package, however it is acknowledged that, if adopted, this report's recommendations will be implemented over time, with the intent of showing demonstrable progress.

² Terms of Reference for the Working Groups and Steering Committee are included in Appendix A

Executive Summary

This report has been prepared in the context of the development and design of a “New Business Relationship” between the Ontario’s hydroelectric (waterpower) sector and the federal government, as represented by the Parks Canada Agency. In response to interest expressed by the Ontario Waterpower Association, in 2012, the Office of the Minister of the Environment agreed in-principle to develop a more structured and collective approach to address key policy issues that pertain to the support of waterpower development. Parks Canada and the Ontario Waterpower Association then began working collaboratively for the purpose of assessing the existing business relationship and identifying recommendations related to a number of key policies and procedures that currently govern the federal government and the waterpower industry association.

The focus of this report is to provide policy and procedural recommendations to promote policy, regulatory, investment, and revenue certainty and consistency, benefiting both the federal government and waterpower industry.

Importantly, the analysis and advice presented has been undertaken collaboratively, the result of which is consensus on the key recommendations. In fact, the process in and of itself has created momentum with respect to an improved business relationship between the parties. Advancing key priorities in the near term will maintain and grow this momentum.

The effort to advance the relationship was informed by the mutual recognition of the need for improved clarity and certainty with respect to key areas of public policy relevant to the use of federal waterways for waterpower production. To guide the process and the development of a strategic policy framework, four (4) core interrelated questions were posed:

1. How can tenure and permitting instruments contribute to shared objectives?
2. What is the appropriate approach to the valuation of federal waterways for the production of hydroelectricity?
3. How should the federal government provide resource access for new waterpower development? and
4. What improvements can be made in communications protocols and procedures between operators of water management infrastructure?

In addressing these questions, government / industry working groups adopted a common evaluative approach that involved:

- Documenting the current state (e.g. policies, protocols, procedures);
- Evaluating the approaches taken by other jurisdictions, notably the provincial government;
- Assessing alternatives; and
- Providing advice and recommended improvements.

Specific recommendations from the working groups in each of the four policy themes are provided in the body of this report. Given the inherent interrelationship between the themes, a number of common observations and recommendations have been made, and are considered Key Findings, as follows:

- There is clear recognition of shared financial interest in optimizing existing water power production and expanding development opportunities.
- There is a need to further build on the existing consistency between federal and provincial instruments, policies and procedures.
- There is a need to formalize and institutionalize communications policies, procedures and protocols in a number of critical areas including water management, annual capital investment and public safety.
- There is a need to define the parameters under which opportunities for shared investment in water management infrastructure that can achieve mutual benefit can be explored and pursued.

While more than forty (40) detailed recommendations are included in the working group reports, highlights of each include:

1. Permits and Licences

- Ensure operational agreements are included in all licences
- Adopt a standardized format for operational agreements
- Incorporate the terms and conditions of the generic provincial waterpower lease agreement into the federal licence to the extent possible and practical

2. Resource Revenues and Fees

- Adopt the terms and conditions of the provincial waterpower rental regulations as federal policy to the extent possible and practical
- Implement a clear and consistent policy approach to capital investments made by industry in federal infrastructure
- Implement a clear and consistent approach to operational agreements and cost sharing

3. Site Release and Development

- Complete the inventory of potential waterpower development sites on federal waterways as soon as possible
- Make development opportunities available on a systematic basis, considerate of the capacity of the Parks Canada Agency
- Make new development opportunities available through a competitive process for larger sites and through unsolicited proposals for smaller sites

4. Communications and Information Management

- Develop and share emergency preparedness planning and public safety measures collaboratively to the extent possible and practical
- Standardize key information with respect to contacts, communications methods, protocols and processes across industry and federal facility managers
- Leverage and share federal and industry use of communication and information management tools

In order to move forward on the New Business Relationship and the Strategic Policy Framework for Water Power, decisions with respect to policy direction and priorities are required in the near term. Adoption of the proposed policy and procedural improvements must recognize existing legal agreements and, therefore, will be phased in over time. While a number of the recommendations may be advanced with relatively minor resourcing implications, moving forward on a number of key priorities (e.g. site release) will require building and sustaining capacity and organizational core competency. Given the considerable effort already undertaken to develop recommendations, the Steering Committee is confident that implementation of a number of them can begin immediately.

Working Group Reports and Recommendations

Permits and Licences

Parks Canada is the federal Agency responsible for the Trent-Severn Waterway and Rideau Canal. Responsibility for these systems includes water management of the Waterways themselves, as well as watersheds comprised of reservoir lakes that supply water to the systems.

As of fall 2013, the Parks Canada Agency administers twenty (20) water power licences, three (3) priority permits, twelve (12) related water power agreements and twenty (20) potential water power sites (undeveloped, rejected, cancelled or expired) on the Trent-Severn Waterway and Rideau Canal. The current water power licence template was revised in 1994, in 2004, and again in 2013 to reflect Canadian Environmental Assessment Act 2012 legislation. The Parks Canada Agency waterpower licence contains similar terms and conditions as the Ontario Ministry of Natural Resources Waterpower Lease Agreement. The Parks Canada Agency issues licences as registerable tenure pursuant to the *Dominion Water Power Act*. Most waterpower facilities are on or adjacent to Parks Canada infrastructure along the waterways, requiring close operational collaboration.

On the Trent-Severn Waterway, there are seventeen (17) waterpower generation stations owned by six (6) parent companies (see Appendix B). There are four (4) additional generating stations located on reservoir lakes that fall under provincial jurisdiction. An additional four (4) stations are located on the Otonabee River, outside the area of Parks Canada's water rights, however they also are subject to Parks Canada's water management of the system.

On the Rideau Canal, there are currently five (5) generating stations operated by two (2) corporations. One related water power agreement is for a grist mill at Watson's Mill, Long Island Dam, with water rights leased to the City of Ottawa. Parks Canada owns the water rights and land, and has issued water power and land licences for all of these sites.

Dominion Waterpower Act and Licensing

The *Dominion Water Power Act* and regulations were developed in 1919 and have only been amended twice since. This legislation falls under the authority of the Minister of Aboriginal Affairs and Northern Development Canada. Parks Canada, formerly with Aboriginal Affairs and Northern Development, was transferred to the Department of the Environment in 1989. The Minister of Aboriginal Affairs and Northern Development provided the Minister of the Environment with special authority to administer water power in national parks outside the Yukon, Northwest Territories and Nunavut and on all historic canals. At Parks Canada this authority is delegated to an executive who carries the title of Director of Water Power.

Only the Minister of Aboriginal Affairs and Northern Development can invoke amendments to the *Dominion Water Power Act*. Some sections of Regulations are dated (for example, the water rental fee, expropriation and requirements for plans to be prepared on linen paper) however overall they still provide an effective authority for administering water power.

Approach

This effort focused primarily on modernizing the terms and conditions to the existing Parks Canada Agency water power licence within the authority of the Act and regulations.

The specific authority with respect to the terms and conditions of a water power licence is found in section 25 of the *Dominion Water Power Regulations*, which states:

25 (4) A final licence shall contain

- (a) the rates or the amounts of the annual rentals payable during the first term of the licence for
 - i. water used or stored, which shall be at the rates set out in subsection 30(7)*
 - ii. and occupied, and*
 - iii. any other privilege granted; and**
- (b) such other terms and conditions as the Minister may impose.*

For each of the working groups including this one, provincial comparators were used as a starting point, leveraging the work already completed between the industry and the Province of Ontario in reviewing key policy areas. In the Permits and Licences group this meant comparing the provincial waterpower lease agreement with the current federal waterpower licence to identify areas where consistency could be achieved between the documents. This comparison revealed that the current licence contains most of the elements as the Ontario Ministry of Natural Resources lease agreements. For example, as a condition of a waterpower licence, operating agreements have been developed under the authority of the *Dominion Water Power Regulations*, in order to outline key principles and procedures for the management of water through generating stations. A similar function is performed through the Ontario Ministry of Natural Resources lease agreement, which references the development of a water management plan.

The recommendations for change are being proposed within the context of the existing legislated requirements of the Act and regulations. Recommendations fall into four (4) areas: ongoing coordination efforts between Parks Canada Agency and the waterpower industry; operational agreements; capital improvements; and specific changes to the water power licence.

Ongoing Coordination

The New Business Relationship process of reviewing key policy areas and developing recommendations has itself already improved the relationship between Parks Canada and industry. Maintaining this momentum in building a new business relationship requires continued capacity and commitment both from industry and Parks Canada.

Recommendations:

- Implement a commitment to meetings between the Parks Canada Agency and industry twice per year, prior to the spring freshet (March/April) and one month before the end of the navigation season (September). Meetings to include representation from across industry involved with Parks Canada Agency infrastructure and Parks Canada Agency staff.
- State commitments in operating agreements for increased coordination between the Parks Canada Agency and industry. Provide standing agenda items in the operating agreement (i.e. infrastructure improvements and water loss, cost share capital improvement projects, operational issues) to be discussed at the industry-wide coordination meeting.
- Align the appropriate level of human and financial resources at Parks Canada with the demand associated with administering permits and licences.

Operational Agreements

Under section 13 of the Act, the position of Director of Water Power is appointed to act on behalf of the Minister of Environment Canada. The Director of Water Power is responsible for all investigations, surveys and all undertakings. The *Dominion Water Power Act* definition of “undertaking” further describes the responsibilities under the *Dominion Water Power Regulations*, which are best described as an operational agreement, which the Director can require.

Section 8 (2) (b) and section 25 (4) (b) of the *Dominion Water Power Regulations* provide the authority for the Minister to impose all terms and conditions, which may be contained in a water power interim and final licence.

It is Parks Canada’s practice to include the terms and conditions of the operation of the waterpower facility in a separate operational agreement, attached as a schedule to the water power licence. With the operational agreement attached and forming part of the licence, it can be enforced under contract law. Section 63 documents the requirement of the Minister to submit the water power licence to the prospective licensee for prior approval before execution.

A master template for operational agreements does not exist at present, as each generating facility is unique in some manner and as a result negotiated individually. It is recommended that key elements should be included in every operating agreement, with flexibility to add or remove sections when required on a “go-forward basis” (e.g. as new licences are developed or renewed).

Recommendations:

- Develop a template for operational agreements to standardize content while allowing for site-specific provisions. This template is recommended to include:
 - Principles “both the Trent-Severn Waterway and the Operator agree that...”
 - Background (on the station itself), include a map and site plan
 - Operating Conditions
 - High Flow Operations
 - Emergency Energy Shortages
 - Non-Navigation Season Gate Operations
 - Fish Spawning Flow Operation
 - Supporting Data (water management information, tables)

Capital Improvements

A key area of emphasis examined was the use of water to its full potential by reducing water wasted through leakage. To address this issue, language to this effect is required in the licence. It is noted that such language (“to minimize wastage of the waters”) was present in the 1994 licence template and as such, it is expected that only a policy decision to re-insert it is required. Collaborative efforts in this regard supporting optimization of water management will yield revenue benefits to both industry and Parks Canada.

Case Example

At one four (4) MW generating station, an investment of \$1100 for a log jacking and cindering project resulted in reduced leakage and an increase in revenue from generation estimated at \$5600 per month, representing almost a 10% increase in annual revenue for both industry and Parks Canada. In another example, a one (1MW) facility estimates that leakage is responsible for a lost opportunity of approximately 15% of available, useable water. Furthermore, investment in the replacement of stop logs with gates could result in financial benefit to both parties and support improvements in staff and public safety, water management and operational efficiency.

There is a need for a Parks Canada policy regarding industry/Parks Canada cost sharing. This would add clarity and direction in a number of areas, ensuring consistent decision making over time and increased certainty to industry.

Recommendations:

- Develop joint strategies to optimize water use for water power production.
- Develop policy guidance with respect to cost sharing and capital improvement investment

Specific Changes to the Water Power Licence

A critical assessment of the terms and conditions of tenure was also undertaken, again considerate of the interest in consistency where possible with respect to the provincial Waterpower Lease Agreement. Key issues identified included:

Insurance

At present, the licence has as a standard condition the requirement for “broad form boiler and machinery insurance on a blanket repair and replacement basis”. Such insurance is expensive to the operator and only required in certain circumstances as a condition of a procurement contract. This requirement is not normally included in a provincial lease agreement; but when required, it is identified in the contracting process.

Replacement of a facility destroyed

A standard condition of both federal and provincial tenure is the approach to dealing with a force majeure event resulting in the destruction or disablement of a facility. The working group determined that, in such situations, existing timelines for the Licencee to determine next steps were not realistic, nor were they consistent with provincial direction under the waterpower lease agreement, which stipulates that the company will notify of its intention to rebuild, replace, reinstate, or reconstruct within six (6) months and complete such activity within thirty-six (36) months of such notice.

Linkage to Operational Agreements

The licence provisions with respect to compliance with water level and flow parameters make no reference to Operating Agreements. To ensure consistency with other recommendations with respect to improved linkages between tenure and operations, specific reference should be added.

Order to shut down

The current licence provides that the Director may deem it necessary to shut down the Power Development for “any reason whatsoever”. Such undefined ability is of concern to the industry and, again, inconsistent with provincial tenure, where no such provision exists.

Incorporation of reference to policy and guidelines

At present, the generic compliance requirements for the licensee are limited to “the Act, all regulations thereunder, the Agreement, any applicable Site plans, any directions by the Minister and the Director of Water-Power”. Given that one intent of this New Business Relationship is to establish policy guidance, reference in the licence is required.

Recommendations:

- Include reference to optimizing water use, and a commitment “to minimize wastage of the waters” in the licence
- Remove requirement for boiler insurance under the current licence template
- Align timelines for notice to rebuild with Ontario provincial policy
- Incorporate reference to Operating Plan in the compliance provisions of the licence
- Specify that the authority to order a facility shut down is “for the purpose of administration of the site”
- Add reference to “policy, directives and guidelines” in order to link the licence to a Parks Canada policy for water power

Resource Revenues and Fees

Waterpower Rentals

The province of Ontario has established water rental rates at 9.5% of Gross Revenue per Megawatt hour as described in the *Ontario Regulation 124/02 Part II* of the *Electricity Act* (\$40/Megawatt hour). This approach was established in regulation in 2001 as part of the industry/government “New Business Relationship” negotiation. Prior to regulation, resource rentals/royalties were administered and collected by the Ministry of Natural Resources through the provisions of the *Public Lands Act* and expressed through the Waterpower Lease Agreement. Policy in this regard evolved over time, but valuation of land occupation for the production of waterpower has long been premised on a “rate” linked to output and/or capacity. The approach and rates established under the *Electricity Act* were consistent with existing rates under the *Public Lands Act* and, importantly, established consistency for all generators.

Historically, there have been several rental rates including the legislated rental rate set under Section 30 of the *Dominion Water Power Regulations* applied to hydroelectricity generating stations on the Trent Severn Waterway and the Rideau Canal National Historic Sites of Canada. Under Contract Law, the Parks Canada Agency is obligated to honor its existing leases and licenses negotiated by antecedent Government departments and former or current Parks Canada Agency staff. It should be noted that where lands were expropriated for the construction of the historic canals, the former landowners were often reimbursed with water rights at a nominal value with some in perpetuity. The Parks Canada Agency undertakes every opportunity to implement current rent formulas and modernize outdated agreements in accordance with Contract Law. Under the *Dominion Water Power Regulations* rent reviews take place 20 years after a licence is commenced and every 10 years thereafter.

Case Example

The most recent Parks Canada position in this regard was expressed in the Request for Proposals for the development of Locks 24 and 25 on the Trent Severn Waterway. Under that Request For Proposals, the Parks Canada Agency water rental rate was set at a minimum of 9.25% of total Gross Revenue. This approach was unique to the Request For Proposals and differed from the previous approach applied to very recent developments on federal waterways. With respect to return to the Crown, the Request For Proposals stipulated the following:

“Parks Canada Agency requires a minimum rent of 9.25% of the licensee’s gross revenue derived from the operation at this site. Parks Canada Agency defines gross revenue as the number of kWh sold times the actual rate at which each kWh is sold. (NOTE: Parks Canada Agency recognizes that this definition is significantly different from the current Ontario definition of gross revenue as per Ontario Regulation 124/02, Part II and will accept and assign a score to all proposals... with a view to maximize the full revenue potential of the waterpower site at Locks 24 and 25 of the Trent-Severn Waterway through an open and competitive process).”

It is common practice in the Government of Canada to issue a Request For Proposals as a means of determining what the market is prepared to pay or supply for contract award. More specifically, Treasury Board's Policy on Management of Real Property outlines that: Real Property decisions are financially prudent and represent the best value to the Crown; and the public is provided with a fair and equitable opportunity to transact with the government. The practice of issuing Requests For Proposals with a "minimum" rent setting is viewed by industry as establishing a "bidding" process and is inconsistent with provincial and industry practices. As a result of working group and steering committee discussions, a specific recommendation was identified to address the request for rate certainty by establishing a set rate moving forward based on the current Parks Canada Agency water power rental rate multiplied by the provincially legislated Megawatt hour rate.

The Parks Canada Agency is currently reevaluating administrative fees (e.g. Application Fee, Survey Permit, Priority Permit, Development Permit, Interim Licence etc.), as well as the possibility to cost-share major capital investments with beneficiaries.

Case Example

In 1990, a developer executed a number of federal licences each containing 30-year terms expiring in 2020 with three (3) 10 year rent reviews, aligning with the provincial policy approach.

- For the first 10 years (1990-2000) the annual rentals were based on a capacity rate and a net energy-generated rate, compounded annually by the Average Consumer Price Index.
- For the first rental review period from 2000-2009, rental rates were \$3.80/Megawatt hour for the non-navigation season (Nov-May) and \$3.42/Megawatt hour for the navigation season (Jun-Oct). This rental rate was phased-in for the period from 2000 to 2003.
- For the second 10-year rent review period, a rate consistent with provincial (Ontario) policy and legislation was applied. The water rental rate for the period of 2010-2014 will be phased in from 9.025% to 9.1% of Gross Revenue per Megawatt hour as described in the *Ontario Regulation 124/02 Part II of the Electricity Act as agreed upon through renegotiation of the water power licence*. The current rate has been \$40 per Megawatt hour.
- For the final rent review period of 2015-2020, the water rental rate will be 9.25% of Gross Revenue per Megawatt hour as described in the *Ontario Regulation 124/02 Part II of the Electricity Act*.

The following key principles have been used to guide the Parks Canada Agency water rental rate determination and decision-making:

- Rent calculations should be consistent with industry/provincial standards;
- There should be a fair and equitable return to the Crown;
- The Parks Canada Agency should Strive for equality in water rental rates among all licensees;
- There should be a fair market rent determination process for both parties.

Under *Ontario Regulation 124/02* of the *Electricity Act* - new, redeveloped or upgraded waterpower developments on provincial land/water are eligible for a water rental rate reduction or “holiday” for the first 10 years of operation based on the following criteria:

- All of the station’s annual generation, in the case of a new station; or
- All of the station’s annual generation in the case of a redeveloped station, defined as a substantially replaced power house and associated physical infrastructure for the conveyance and utilization of water; or
- The electricity generated by the station that is associated with the upgrade, defined as a station at which improvements increase the station’s generation of electricity by at least two per cent on an annual basis

This rental “holiday” recognizes that waterpower development or recapitalization is capital-intensive. On average, it takes five (5) to seven (7) years to bring a new facility into production and an additional ten (10) to twelve (12) years to achieve “simple payback” of the initial investment. It is important to note that there is an incentive for the provincial government to offer a holiday based on broader provincial energy policy objectives. Industry is supportive of consistency with the approach of the province, however in the federal context the *Dominion Water Power Regulations* do not provide the authority to Parks Canada for the provision of a rental holiday. Additionally, there is no incentive for offering such a holiday, as this would negate several years of potential revenue returned to the federal Crown once a facility commences operations. Both parties acknowledge that the absence of a holiday provision may result in fewer waterpower development proposals coming forward but neither party is of the view that this will completely eliminate investment.

Recommendations:

- Produce an approved water power policy, directives and standards that establish clear direction for the water power rental rate, ancillary land rental rate, permit fees and any rebates for investment to Parks Canada Agency infrastructure
- Adopt the rental rate of 9.25% of Gross Revenue per Megawatt hour as described in the *Ontario Regulation 124/02 Part II of the Electricity Act* (\$40 Megawatt hour) for new licences, and upon rent review and expansion for existing waterpower facilities
- Strive for consistency with rates associated with licence renewals
- Conduct rent reviews as per the existing federal regulations and when there is a change to the provincial rental rate to support Parks Canada's obligations under Treasury Board Policy to ensure market value.

Capital Improvement Cost Sharing

The *Dominion Water Power Regulations* under Section 55 "Pro-Rating of Capital Cost of Works" provides for the collection of capital costs where "regulating or storage works" are undertaken "for the control or augmentation of the flow of that stream for water-power or other purposes". To date this mechanism has not been implemented on the historic canals. Where there is clear and agreed upon mutual benefit (e.g. fair return) to both industry and the Parks Canada Agency, capital improvement cost sharing should be considered. Areas where clear mutual benefit may exist include the installation of water control gates and upgrades to stop logs thereby potentially increasing availability of excess water. Such upgrades could also address health and safety concerns and provide for more reliable operations and increased revenues to both the developer and the Parks Canada Agency. The Parks Canada Agency recognizes that the reduction of water waste is a priority from a revenue generation standpoint and for operational control purposes.

Recommendations:

- Develop negotiating parameters for capital improvement cost sharing to be accounted for in water power rental rates and documented in the Parks Canada Agency Water Power Policy
- Incorporate capital improvement cost sharing in the commitment to communicate in the operational agreements

Operational Considerations

The Parks Canada Agency currently operates all water control structures excluding waterpower generating stations on the historic canals. Management of these structures requires daily coordination between waterpower operators and Parks Canada Agency operational staff to perform dam operations. Improvement is needed to ensure adjustments to dam operations are timely and operating revenue is optimized. The industry has expressed interest in site-specific exploration of the potential to develop an operating agreement with Parks Canada for an Agency owned dam. Key issues are likely to include liability concerns and/or collective agreement concerns. In order to ensure clarity and certainty for both parties, broader guidance is required.

Recommendations:

- Determine policy position with respect to the potential for industry operation of Parks Canada Agency infrastructure
- Establish negotiating parameters for operational cost sharing to be accounted for in water power rental rates or issuance of a credit as documented in the Parks Canada Agency Water Power Policy

Site Release and Development

Parks Canada Mandate

The Government of Canada is committed to developing Canada's extraordinary resource wealth in a way that protects the environment and supports major new clean energy projects of national or regional significance. Waterpower development on federal lands and historic waterways administered by the Parks Canada Agency supports this government commitment.

The Minister of the Environment as represented by the Parks Canada Agency is responsible for the administration and control of eight (8) canal waterways in Ontario including the Trent-Severn Waterway National Historic Site of Canada and the Rideau Canal National Historic Site of Canada. The historic canals are administered under several legal authorities.

The Parks Canada Agency's mandate is to protect and present nationally significant examples of Canada's natural and cultural heritage, and foster public understanding, appreciation and enjoyment in ways that ensure the ecological and commemorative integrity of these places for present and future generations.

The Parks Canada Agency's long term management direction for historic canals is to ensure that the heritage and recreation values of the canal waterways are sustained for the benefit of current and future generation of all Canadians.

The Parks Canada Agency is required to administer its extensive real property portfolio in a manner that:

- Promotes ecological and commemorative integrity and is consistent with the principle of sustainable development;
- Is cost effective and that will provide for the maximum long-term economic and or program advantage to the Agency;
- Is proactive, professional and pursues maximizing business development objectives where they are compatible with the Agency's ecological and commemorative integrity objectives;
- Utilizes a risk management approach, actively monitors third party land management practices and retains private sector expertise when appropriate;
- Provides for the fair, open and equitable treatment of the public; and
- Respects related Parks Canada policies, central agency policies and relevant statutes, regulations, common law and civil law.

There is a clear need for comprehensive water power policy, directives and standards for all water power transactions including site release that will assist industry in understanding the opportunities and limitations that exist for development along these historic canal waterways administered by the Parks Canada Agency.

When developing guiding principles for site release, the working group clarified that developers are seeking:

- Certainty in rules;
- Clear policy, directives and standards;
- Stability;
- Transparency; and
- Equity of treatment of all proponents.

Current Status of Development

Parks Canada has released four (4) new water power sites on two (2) historic canals over the last seven (7) years. Water power Sites have been released using a Request for Proposal process or by accepting unsolicited proposals and undertaking the business process described in the *Dominion Water Power Regulation*. Eight (8) applications have been rejected over the past seven (7) years due to clouded water right issues or site conditions. There are still a number of larger sites (>5 MW) on the Trent-Severn Waterway which have not been released, as well as a number of smaller sites which may be viable as technology evolves. Research confirming land and water rights for all potential water power sites along the large historic canals is ongoing. Due to the age of these records and the ownership of these lands/water rights by antecedent government departments, these records are not easily identified or accessible. Appropriate written approvals must be obtained and the records located and shipped from off-site record storage facilities. Any land and water rights belonging to Her Majesty prior to the passing of the *British North America Act 1867* may not be registered in provincial land registries and research must be undertaken at National Archives, the Parks Canada Agency Land Registry and the Parks Canada Agency Central Registry records. All research reports prepared on the Parks Canada Agency land and water rights must then be reviewed and confirmed by the Department of Justice. The Parks Canada Agency cannot risk releasing water power sites for which it does not have clear title.

Under authority of the *Dominion Water Power Act*, the Minister has the sole authority to approve or deny any application for the use of Crown land and water for the purpose of generating water power. This authority under the *Dominion Water Power Act* has been delegated to the Director of Water Power for the powers duties and functions under the *Dominion Water Power Act* respecting all historic canals and National Parks situated outside the Yukon Territory, Northwest Territories and Nunavut.

Many factors are considered in preparing to release water power sites administered by the Parks Canada Agency for the purpose of water power generation. Site specific considerations include:

- Clear Crown title to the land surrounding the water power site;
- Clear Crown title to the water rights;
- Consideration of riparian rights;
- Revenue generation potential for the Crown (based on the volume of water and size of land);
- Desirability in terms of flow, duration and height of the dam;
- Potential for increased operational efficiencies (resulting from the installation of a plant);
- Condition of existing infrastructure;
- Aboriginal interest or claims;

- Public environment (stakeholder interests, previous consultations etc.), and
- Environmental and cultural constraints.

Ontario Provincial Context

The procurement of waterpower generation continues to be a priority for the provincial government in Ontario. The Minister of Energy has directed the Ontario Power Authority to launch two standard offer programs by September 30, 2013 to procure up to:

- *40 MW of hydroelectric capacity at existing facilities with expansion potential for incremental capacity with the following participants:*
 - *Non-Utility Generation facilities under current contract with the Ontario Electric Finance Corporation (OEFC); and*
 - *Existing Hydroelectric Contract Initiative (HCI) contracted facilities that were not deemed by the OPA to be under negotiation with the OPA before the Minister's January 21, 2013 directive "Re: Hydroelectric Projects".*
- *50 MW of new hydroelectric capacity for municipal hydroelectric projects that are at least 5 MW.*

The Ontario Power Authority, as directed by the Minister of Energy recently completed its review of the long-term energy plan from 2010, which will direct the procurement of electricity projects for the foreseeable future in Ontario. The 2013 long-term energy plan expands the province's target for water power to 9300MW from the previous target of 9000MW set in 2010.

The Province of Ontario has a Waterpower Site Release – Crown Land Policy and Procedures dated April 16, 2010 and revised more recently to align with provincial procurement (e.g. Feed in Tariff Program). The policy establishes program direction, goals and guiding principles, as well as criteria for receiving and evaluating applications. It also sets out timelines and transferability as well as applicable policies and procedure references. A Parks Canada Agency policy on waterpower site release containing similar key components to the provincial equivalent is required. The working group reviewed the Ontario policy and has made recommendations on elements that the Parks Canada Agency should consider adopting in its own waterpower site release policy.

Through the Ontario Feed in Tariff (FIT) process, the Province of Ontario recognizes that municipal and aboriginal support is an important component of a project. The Parks Canada Agency may also want to consider how this support is to be considered within its site release guidelines, standards, and procedures.

Developing a Parks Canada Agency Water Power Policy

Adopting the following guiding principles outlined in the Ontario provincial policy as it aligns with the *Dominion Water Power Act* and regulation would be an important first step in the development of a waterpower specific policy for Parks Canada:

- Apply a fair, open and standardized approach to the allocation of resources, granting of tenure, and charging of market rents and fees;
- Follow effective and efficient land management, sustainable development, environmental assessment and stakeholder consultation practices as per tools approved by the Parks Canada Agency;
- Fulfill duty to consult with Aboriginal peoples where its actions may adversely affect an established or asserted Aboriginal or treaty right as per tools approved by the Parks Canada Agency.

Site Release Guidelines and Procedures

The following recommendations are designed to assist in the development of a site release policy for the Parks Canada Agency. The guideline would leverage strategic opportunities through a Parks Canada Agency administered Request For Proposals process for “large sites”, provide clarity with regards to unsolicited proposals for smaller sites and allow some flexibility for medium sized sites. All processes will require clear procedural direction on timelines for considering proposals and the application format.

Recommendations:

- Adopt a guideline for site release such that:
 - All sites over 5MW to be released through a Request for Proposals process.
 - Sites between 1MW and 5MW to be released via unsolicited application procedure, with Parks Canada reserving the right to apply a Request for Proposals process.
 - Sites under 1MW to be released through an unsolicited proposal process.
- Develop a water power site release guideline in consultation with industry containing similar key components to the provincial equivalent
- Complete an inventory of water power sites with clear title to the land and water rights. Identify and apply criteria under which water power sites are available for release as well as those that are unavailable.
- Establish timelines for water power site release procedure (e.g. for initial review and response to proposals).
- Establish site release targets (e.g. maximum number of sites to be released annually, maximum number of unsolicited requests, etc) consistent with industry interest and agency capacity.
- Include in the site release procedure:
 - Rating criteria that helps rate the water power sites to prioritize them for release
 - Create a checklist of items to include in an “application” for proponents wishing to submit an unsolicited proposal
 - Implement a rollout plan/web resource for these tools

Communications and Information Management

Water Power Operations

Historically, communications about operations between individual waterpower operators and Parks Canada has been largely informal, with procedural aspects passed down from staff member to staff member as individuals transitioned into new positions in the organization. Current practice dictates that phone calls to lockmasters and the water manager position occur on a frequent (daily) basis regarding alterations to operations at specific dam sites. There was recognition that informal calls can be time consuming and labour intensive for Parks Canada. These calls can span well beyond regular work hours due to the challenges of operating facilities on a 24-hour basis. There was an early recognition that given the informality of these communications that there was not a great deal of documentation that could be provided for review.

The primary focus was to examine communications with existing operators familiar with Parks Canada. An additional area of consideration included communicating with industry more broadly; ensuring those who Parks Canada does not yet have a relationship with are engaged. This was performed by the Ontario Waterpower Association through a webinar with participation including Environmental, Engineering, Generator/Developer members of the Ontario Waterpower Association and teleconferences involving owners and operators on federal waterways.

The current state of formal communications generally resides in documents such as Parks Canada operating agreements with individual operators (where they exist). For comparison, Hydro One's "Schedule D" document which is a component of the connection agreement provided by waterpower operators containing a list of key contacts, communication protocols and emergency protocols was assessed. This provides a useful template, which could be adopted and adjusted, as appropriate.

Recommendations:

- Develop a standard document for operators to be appended to operational agreements (e.g. contacts, means of communication, emergency contacts, protocols, facility maps, hours of operation, etc)
- Schedule industry/Parks Canada meetings semi-annually, in advance of the opening of the navigation season and leading up to the opening of non-navigation season.
- Establish a standard Agenda for the meetings, including:
 - Capital planning;
 - Maintenance;
 - Environmental considerations;
 - Water management;
 - Emergency planning;
 - Incident reporting; and
 - Communication protocols.

Recommendations (continued):

- Produce and share a water management manual with operators
- Improved two-way exchange of information through the provision or improvement of water gauge data, flow curves with minimum, maximum and average levels, etc
- Expand the digital exchange of information (e.g. website, sharepoint software, modeling etc)

Emergency Planning

Parks Canada has a formal policy in the form of the Directive for a Dam Safety Program of Parks Canada Dams and Water-Retaining Structures (January, 2009). The dam safety directive stipulates that:

“Operation, maintenance and surveillance (OMS) procedures shall be developed for each dam or site and updated when there are major changes to the structures, flow control equipment, or operating conditions”

The OMS procedures are to be documented in an OMS manual and kept up to date by the waterways directorate. The directive includes a template for a table of contents. Included in the dam safety directive is the development of an emergency preparedness plan that consists of:

- *“An internal, dam-specific emergency response plan (ERP), which will include actions the Parks Canada Agency will take in response to unusual or emergency conditions for all dams”*
- *“An emergency preparedness plan (EPP), developed for external use, defines the hazards posed by a dam. The roles and responsibilities of all parties, and notifications shall be defined in this document. This document is intended for emergency response agencies to incorporate with their own emergency response plans.”*

The directive includes a recognition that *“other stakeholders and emergency responders should be invited to participate in tests and drills”* of the EPPs and ERPs. All waterpower operators have similar plans in place for each of their respective facilities. It was indicated by Parks Canada staff that the full implementation of the dam safety directive remains a work in progress and that further coordination between the Parks Canada Agency and industry is required.

In Ontario, a Best Management Practices (BMP) approach is in place through the Lakes and Rivers Improvement Act, administered by the Ministry of Natural Resources. The BMP for Dam Safety Reviews (2011) outlines the contents of an effective dam safety review and its intersection with Emergency Preparedness Plans. Individual operators are expected to have internal ERPs in place for their dams.

Recommendations:

- Share Emergency Response Plans and Emergency Preparedness Plans.
- Collaborate on emergency drills and tabletop exercises

Visitor / Public Safety

Parks Canada has a formal policy in the form of the Parks Canada Visitor Safety Directive (April, 2013). The visitor safety directive is based on four pillars, as outlined below:

- *Prevention and Mitigation -- to eliminate or reduce the risks of incidents in order to protect lives, property, the environment and disruption to visitor experience. Prevention and mitigation includes structural mitigation measures (e.g. warning signs or physical barriers like fences or gates) and non-structural mitigation measures (eg. Permits, mandatory training, insurance, public education and outreach programs). Prevention and mitigation may be considered independently or in an integrated manner.*
- *Preparedness – to be ready to respond to an incident and manage its consequences through measures taken prior to an event (eg. Visitor safety plans, memoranda of understanding (MOU), resource inventories, training, equipment and exercise programs).*
- *Response – to act during an incident to manage its consequences (eg. emergency public communication, search and rescue, emergency medical assistance and evacuation to minimize suffering and loss).*
- *Recovery – to restore conditions to an acceptable level through measures taken after an incident (eg. incident debrief, review lessons learned, update of visitor safety plan, update mitigation measures, trauma counseling and activity review).*

Parks Canada noted that their organization has inherently high-risk activities and therefore the focus of visitor safety programs was often focused on education about the risks at the facilities. Public safety for waterpower operators on the other hand often focuses more around prevention by means of physical barriers and signage to prevent access to facilities and educate the public about the dangers surrounding waterpower facilities.

In Ontario, a Best Management Practices (BMP) approach is in place through the Lakes and Rivers Improvement Act, administered by the Ministry of Natural Resources. The BMP for Public Safety Around Dams (2011) outlines the contents of a Public Safety Plan and includes best practices for assessments, safety measures, inspections, record keeping, incident reporting, and various public safety measures such as signage and fencing. The Ontario Waterpower Association maintains a sign store to encourage waterpower operators to upgrade and/or install consistent and effective signage throughout the Province.

A number of linkages between operators and Parks Canada could be useful in the future, most notably the exchange of information and plans. The following recommendations reflect a more coordinated approach to site and visitor safety that should be implemented.

Recommendations:

- Share site safety and public safety around dams plans
- Establish mechanisms for regular exchange of public safety incidents/reports and communication of hazards where infrastructure is shared
- Establish formal emergency contact numbers and protocols with operators

Conclusion

Together, Parks Canada and the Ontario Waterpower Association have examined key areas of mutual interest with the goal of establishing a New Business Relationship. Recommendations by each area are as follows:

Permits and Licences

- Implement a commitment to meetings between the Parks Canada Agency and industry twice per year, prior to the spring freshet (March/April) and one month before the end of the navigation season (September). Meetings to include representation from across industry involved with Parks Canada Agency infrastructure and Parks Canada Agency staff.
- State commitments in operating agreements for increased coordination between the Parks Canada Agency and industry. Provide standing agenda items in the operating agreement (i.e. infrastructure improvements and water loss, cost share capital improvement projects, operational issues) to be discussed at the industry-wide coordination meeting.
- Align the appropriate level of human and financial resources at Parks Canada with the demand associated with administering permits and licences.
- Develop a template for operational agreements to standardize content while allowing for site-specific provisions. This template is recommended to include:
 - Principles “both the Trent-Severn Waterway and the Operator agree that...”
 - Background (on the station itself), include a map and site plan
 - Operating Conditions
 - High Flow Operations
 - Emergency Energy Shortages
 - Non-Navigation Season Gate Operations
 - Fish Spawning Flow Operation
 - Supporting Data (water management information, tables)
- Develop joint strategies to optimize water use for water power production.
- Develop policy guidance with respect to cost sharing and capital improvement investment
- Include reference to optimizing water use, and a commitment “to minimize wastage of the waters” in the licence
- Remove requirement for boiler insurance under the current licence template
- Align timelines for notice to rebuild with Ontario provincial policy
- Incorporate reference to Operating Plan in the compliance provisions of the licence
- Specify that the authority to order a facility shut down is “for the purpose of administration of the site”
- Add reference to “policy, directives and guidelines” in order to link the licence to a Parks Canada policy for water power

Resource Revenues and Fees

- Produce an approved water power policy, directives and standards that establish clear direction for the water power rental rate, ancillary land rental rate, permit fees and any rebates for investment to Parks Canada Agency infrastructure
- Adopt the rental rate of 9.25% of Gross Revenue per Megawatt hour as described in the *Ontario Regulation 124/02 Part II of the Electricity Act* (\$40 Megawatt hour) for new licences, and upon rent review and expansion for existing waterpower facilities.
- Strive for consistency with rates associated with licence renewals
- Develop negotiating parameters for capital improvement cost sharing to be accounted for in water power rental rates and documented in the Parks Canada Agency Water Power Policy
- Incorporate capital improvement cost sharing in the commitment to communicate in the operational agreements
- Determine policy position with respect to the potential for industry operation of Parks Canada Agency infrastructure
- Establish negotiating parameters for operational cost sharing to be accounted for in water power rental rates or issuance of a credit as documented in the Parks Canada Agency Water Power Policy

Site Release and Development

- Adopt a guideline for site release such that:
 - All sites over 5MW to be released through a Request for Proposals process.
 - Sites between 1MW and 5MW to be released via unsolicited application procedure, with Parks Canada reserving the right to apply a Request for Proposals process.
 - Sites under 1MW to be released through an unsolicited proposal process.
- Develop a water power site release guideline in consultation with industry containing similar key components to the provincial equivalent
- Complete an inventory of water power sites with clear title to the land and water rights. Identify and apply criteria under which water power sites are available for release as well as those that are unavailable.
- Establish timelines for water power site release procedure (e.g. for initial review and response to proposals).
- Establish site release targets (e.g. maximum number of sites to be released annually, maximum number of unsolicited requests, etc) consistent with industry interest and agency capacity.
- Include in the site release procedure:
 - Rating Criteria that helps rate the water power sites to prioritize them for release
 - Create a checklist of items to include in an “application” for proponents wishing to submit an unsolicited proposal
- Implement a Rollout plan/web resource for these tools

Communications and Information Management

- Develop a standard document for operators to be appended to operational agreements (e.g. contacts, means of communication, emergency contacts, protocols, facility maps, hours of operation, etc)
- Schedule industry/Parks Canada meetings semi-annually, in advance of the opening of the navigation season and leading up to the opening of non-navigation season.
- Establish a standard Agenda for the meetings, including:
 - Capital planning;
 - Maintenance;
 - Environmental considerations;
 - Water management;
 - Emergency planning;
 - Incident reporting; and
 - Communication protocols
- Produce and share a water management manual with operators
- Improved two-way exchange of information through the provision or improvement of water gauge data, flow curves with minimum, maximum and average levels, etc
- Expand the digital exchange of information (e.g. website, sharepoint software, modeling etc)
- Share Emergency Response Plans and Emergency Preparedness Plans.
- Collaborate on emergency drills and tabletop exercises
- Share site safety and public safety around dams plans
- Establish mechanisms for regular exchange of public safety incidents/reports and communication of hazards where infrastructure is shared
- Establish formal emergency contact numbers and protocols with operators

This report and its recommendations are the product of a collaborative and cooperative effort by the federal government, as represented by Parks Canada and Ontario's waterpower industry, as represented by the Ontario Waterpower Association to analyze and assess the shared opportunities and issues associated with waterpower generation and development on federal waterways. It has been prepared in the spirit of collaboration and premised on benefits to be realized by establishing long-term policy and financial certainty for Parks Canada and the Ontario Waterpower industry. It is anticipated that recommendations resulting from this endeavour form the foundation of a New Business Relationship between Parks Canada and the waterpower industry in Ontario, leading to improved policy, regulatory, investment and revenue certainty and consistency to the benefit of both parties from this point forward. All parties are committed to monitor, evaluate, assess and where necessary adjust as the recommendations are implemented over time as a commitment to the adaptive management of this resource.

Appendices

Appendix A – Task Team and Subcommittee Terms of Reference

Towards a New Business Relationship - Waterpower on Federal Waterways Task Force

Background and Context

- Waterpower facilities on federal Crown lands are licensed pursuant to the provisions of the *Dominion Waterpower Act* and regulations thereunder. Notwithstanding that the authority for the legislation rests with the Minister of Indian and Northern Affairs Canada, administration of the licences and their provisions, at least in Ontario, has been led for some years by Parks Canada, related to their operational responsibilities for federal canals
- More than two-dozen waterpower facilities in Ontario occupy federal lands on the Trent-Severn and Rideau systems. In total, these facilities represent almost 100 MW of installed capacity and produce, on average, approximately 500 GWh of clean, renewable energy
- The Ontario Waterpower Association has for a number of years been advancing a more corporate relationship with Parks Canada focused on improving the business relationship between the federal government and the industry on federal waterways
- During this period, issues and concerns have tended to be addressed through a “one-of” approach by Parks Canada and most specifically the Trent-Severn Waterway (e.g. water management, infrastructure maintenance, licenses and fees etc.)
- Increasingly, the federal/industry relationship has been driven by local operational efforts to obtain additional revenues
- There have been a number of reviews and organizational adjustments over time by the federal government with respect to canals. The most recent directly relevant initiative to this undertaking is the “Panel on the Future of the Trent-Severn Waterway”, key recommendations of which are included as an Appendix
- A more strategic approach to a business relationship with the waterpower industry is needed to create investment certainty for the sector and regulatory and revenue certainty for the federal government

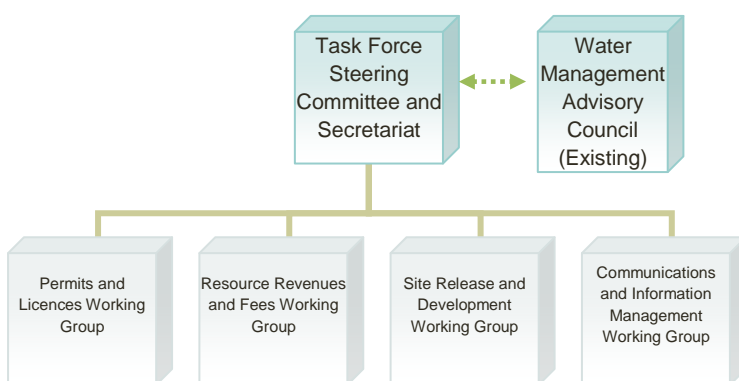
- In the spring of 2012, the Ontario Waterpower Association received agreement in principle from the Minister's Office (Environment) to develop a more structured and collective approach to key policy issues.
- The Ontario Waterpower Association re-engaged Parks Canada senior management in October, 2012 and re-confirmed a commitment to work on the core elements of a new business relationship model – this "Terms of Reference" is intended to facilitate this.

Task Force Structure and Mandate:

As outlined in Figure 1, the Task Force is proposed to be guided by a Steering Committee, Co-chaired by the President of the Ontario Waterpower Association and the Director of Water Power under the *Dominion Water Power Act*. The Steering Committee will be focused on policy matters and will be responsible for providing overall advice and direction to the individual technical working groups, consistent with the principles described herein. The Committee will also prepare a final report and recommendations to the Minister in each of the four (4) areas of emphasis identified.

The structure also recognizes that Parks Canada has already established separate and broader outreach and engagement initiatives focused on the multiplicity of stakeholders interested in "operations" of the waterways (e.g., Trent-Severn Water Management Advisory Council). It is not the intent of this effort to duplicate or conflict with these initiatives or groups, rather to focus on the policy and practical elements of the unique business relationship between the federal government and the waterpower industry.

Figure 1 – Proposed Task Force Structure



Composition:

Both the federal government and the industry are to engage policy and technical expertise. The following composition is suggested:

Steering Committee

The Steering Committee is responsible for providing overall direction for the initiative, reporting progress to their respective organizations, oversight of the development of the final report considerate of Working Group recommendations and submission of the report to the Minister of Environment. In addition, each Steering Committee member will have lead liaison responsibility for one of the four (4) working groups.

Federal Government Representatives:

Kalvin Mercer, Chief Information and Real Property Officer (Director of Water Power – Parks Canada)

Darlene Executive Director Waterways, Parks Canada

Waterpower Industry:

Paul Norris, President, Ontario Waterpower Association

Robert Allen, President Shaman Power (Director – Ontario Waterpower Association)

Secretariat

The Steering Committee Secretariat has responsibility for providing technical support to the Working Groups (e.g. research and analysis) as well “authorship” of the draft Steering Committee Report to ensure consistency and continuity of report style and presentation.

Members:

Colin Hoag, Policy Advisor, Ontario Waterpower Association

Heidi Perren, Acting Senior Advisor, Parks Canada

Working Groups

The Working Groups will be individually supported one Steering Committee representative and the secretariat and will be comprised of respective representatives with appropriate subject matter and technical expertise. Working Group products will be tabled with the Steering Committee for consideration in drafting a final report and making recommendations to the Minister.

Objectives:

The objectives are to:

- Further the collective relationship between Ontario’s waterpower industry and the federal government
- Address key policy and practical considerations that define the relationship between the industry and the federal government

- Share and exchange information and tools to improve the collective understanding of the management of infrastructure on federal waterways
- Develop tangible actions for and improved policy and practical business practices among infrastructure owners and operators
- Prepare and submit a report to the Minister of Environment by September, 2013.

Governing Principles:

The initiative is to be guided by the following principles:

- It is in the best interest of the federal government and the waterpower industry to strive for a balance of social, economic and environmental benefits
- Regulatory and investment certainty and consistency are important to both the waterpower industry and the federal government
- Both parties recognize the need for fair and equitable treatment and use of public resources
- The generation of clean and renewable energy from hydroelectricity contributes to federal and provincial policies and objectives and is encouraged
- Allocation and apportionment of water resources must consider the needs of affected stakeholders and interests. As water infrastructure operators, the federal government and the waterpower industry have a unique role and relationship in this regard.

Member Responsibilities:

- All members are responsible for providing information, expertise and input of relevance to the mandate to the working group
- Members are to focus primarily on technical considerations related to the specific areas of emphasis
- Members are responsible for contributing their time and any costs associated with attending meetings
- The Ontario Waterpower Association and Parks Canada will jointly share all costs related to hosting meetings and working group products, to an initial maximum of 10K.

Steering Committee or Working Group related business, including fact finding explorations and discussions undertaken by members, shall be treated as confidential material, and shall be used solely for fulfilling the Steering Committee or Working Group Terms of Reference. The Steering Committee and Working Group members shall keep all information of a proprietary or confidential nature in confidence and in a secure manner.

Areas of Emphasis:

1. Permits and Licenses

Context: The permitting, approvals and licensing policies, provisions and processes (e.g., tenure) pursuant to the *Dominion Water Power Act* have not been clearly articulated (e.g., through supporting policy and procedural directives). There are also apparent questions and concerns related to existing and new licenses.

Provincial Comparator(s): Generic Waterpower Lease Agreement, *Lakes and Rivers Improvement Act* Technical Guidelines

Deliverable: Situational analysis, determination of shared priorities, joint recommendations

Steering Committee Contact: Calvin Mercer

2. Resource Revenues and Fees

Context: There is a wide range of approaches taken to the establishment of waterpower rentals on federal waterways, with even the most recent developments being assessed differently. There is also a number of “one off” fees for service negotiations taking place to address federal financial limitations. A more cogent and comprehensive approach is required.

Provincial Comparator(s): Regulation pursuant to the *Electricity Act*, Redevelopment and Upgrade Policy (Ministry of Natural Resources)

Deliverable: Situational analysis, determination of shared priorities, joint recommendations

Steering Committee Contact: Robert Allen

3. Site Release and Development

Context: There is significant interest in and broader policy support for pursuing new waterpower development opportunities on federal waterways but no overall framework to guide new investment.

Provincial Comparator(s): Renewable Energy on Crown Land Policy (Ministry of Natural Resources)

Deliverable: Situational analysis, determination of shared priorities, joint recommendations

Steering Committee Contact: Darlene Upton

4. Communication

Context: Waterpower generation (and revenues to the federal government) is one of several considerations in water management decision-making. The absence of shared and modern data and hydrologic modeling and communication tools and protocols can hinder decision-making and the subsequent communication and understanding of those decisions. Improvements in this regard among infrastructure operators can benefit system management.

Provincial Comparator(s): Water Management Planning, Dam Operating Plans (*LRIA*), Hydrologic modeling programs

Deliverable: Situational analysis, determination of shared priorities, joint recommendations

Steering Committee Contact: Paul Norris

Product and Timelines:

March 2013 – Terms of Reference finalized

April 2013 – Steering Committee established, initial scoping and synthesis

April 2013 – Potential Working group members identified

May 2013 – Working group ToR prepared, Working groups established

June-September 2013 – Working group recommendations to the Steering Committee

September/October 2013 – Secretariat/Steering Committee draft Report

November 2013 – Report tabled with Minister

Appendix - Key Panel on the Future of the Trent-Severn Waterway Recommendations

RECOMMENDATION 15

Support Canada's goal of increasing the supply of renewable energy by facilitating the development of additional hydro-generation capacity along the waterway with due regard for its important natural and cultural values.

RECOMMENDATION 16

Administer the allocation and management of hydro developments on the Trent-Severn Waterway by establishing a hydroelectric generation division of the independent water management agency reporting to the Federal Minister of Natural Resources.

RECOMMENDATION 17

Encourage development of new hydro generation facilities along the waterway by modernizing the *Dominion Water Power Act* and Regulations to provide for:

- (a) Enhanced efficiency in the new site allocation and development process;
- (b) Consistency with other related legislation such as the *Canadian Environmental Assessment Act*, and,
- (c) A license fee regime that recognizes public ownership of the water and the public investment in managing water supplies used for hydro generation.

RECOMMENDATION 18

Ensure industry contributes appropriately toward maintenance and operation of the water management system by reviewing the tenure and licensing instruments of all existing hydro generation facilities within the watershed.

RECOMMENDATION 25

Ensure that waterway infrastructure is maintained, repaired and replaced according to appropriate standards by increasing the annual infrastructure maintenance, repair and replacement budget by \$21 million per year on a phased-in basis starting immediately.

RECOMMENDATION 26

Ensure that the effectiveness of investment in maintenance, repair and replacement of waterway built assets is maximized through development of a cadre of well-trained and experienced personnel with a strong succession and training program.

Appendix B – Listing of Developed Sites on Federal Waterways

SITE IDENTIFIER	SITE NAME	STATION OWNER	RIVER	YEAR BUILT	INSTALLED CAPACITY	OPERATION TYPE
2HK23	BATAWA GS	Innergex Renewable Energy Inc.	TRENT	2000	5	Run-of-River Plant
2HK04&2HK35	CAMPBELLFORD GS#1&2	Algonquin/Campbellford PUC/Campbellford LP	TRENT	1909	6	Base Load/Run-of-River Plant
2HH16	FENELON FALLS GS	Shaman Power Corporation	FENELON	1997	2.6	Base Load Plant
2HK09	FRANKFORD GS	Ontario Power Generation	TRENT	1913	3	Run-of-River Plant
2HK12	GLEN MILLER LOCK 3 DAM 3	Innergex Renewable Energy Inc.	TRENT	1985	8	Base Load Plant
2HK34	HAGUES REACH GS	Ontario Power Generation	TRENT	1925	4	Run-of-River Plant
2HK07	HEALEY FALLS GS	Ontario Power Generation	TRENT	1914	12	Run-of-River Plant
2HJ02	LAKEFIELD GS	Ontario Power Generation	OTONABEE	1928	2	Run-of-River Plant
2HK01	MARMORA GS	Shaman Power Corporation	CROWE	1992	1.04	Base Load Plant
2HK33	MEYERSBURG LOCKS 8 & 9 DAM8	Ontario Power Generation	TRENT	1924	5.2	Run-of-River Plant
2HK30	RANNEY FALLS GS	Ontario Power Generation	TRENT	1922	10	Run-of-River Plant
2HJ03	ROBERT G. LAKE GS	Trent Rapids Power Corporation	OTONABEE	2008	8	Run-of-River Plant
2HK08	SEYMOUR GS	Ontario Power Generation	TRENT	1909	6	Run-of-River Plant
2HK10	SIDNEY GS	Ontario Power Generation	TRENT	1911	4.4	Run-of-River Plant
2LA14	MERRICKVILLE GS	Ontario Power Generation	RIDEAU CANAL	1919	2	Run-of-River Plant

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2MA01	BREWERS MILLS	Fortis Properties Corporation	RIDEAU CANAL	1940	0.9	Run-of-River Plant
2MA03	JONES FALLS	Fortis Properties Corporation	RIDEAU CANAL	1949	2.25	Run-of-River Plant
2MA14	KINGSTON MILLS	Fortis Properties Corporation	RIDEAU CANAL	1914	1.9	Run-of-River Plant
2MA25	WASHBURN	Fortis Properties Corporation	RIDEAU CANAL	1943	0.19	Run-of-River Plant
2EC17	SWIFT RAPIDS	Orillia Power	SEVERN	1917	7.8	Base Load Plant