

**APPENDIX A**

**WATERWAY DESIGNATION  
AND  
MNR SITE INFORMATION PACKAGE**

## WATERWAY DESIGNATION

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February 28, 2011

**Confidential**

Xeneca Power Development Inc.  
5160 Yonge Street  
Suite 520  
Toronto ON M2N 6L9

Attention: Mr. Mark Holmes, Vice President

Dear Mr. Holmes:

**Re: Designation of Managed Waterway for the Purpose of the Ontario  
Waterpower Class Environmental Assessment  
Project: Wanatango Falls  
River: Frederick House River**

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

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

**Background and Facts:**

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

1. Xeneca has provided a copy of the attached map showing the area around the Project and we would note the following:
  - a. The Frederick House River flows through the Town of Iroquois Falls to the Abitibi River. There is an existing waterpower facility on the Abitibi River.

- b. There is a dam, the Frederick House River Dam at Iroquois Falls.
  - c. Xstrata (Kidd Metallurgical) has a permit to take water for the Frederick House River with a daily volume of 78 million litres.
  - d. There are bridges over the Frederick House River (e.g. Highway 11, 101 and the Ontario Northland). The bridge at Highway 101 was replaced in 2004-05.
2. The Ontario Waterpower Association has informed Xeneca that during the development of the Class EA the policy discussion regarding “unmanaged waterway” was intended to pertain to undisturbed rivers for which there tends to be very little information such as rivers in the Northern Rivers Area.

**Analysis:**

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

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

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

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

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

- **Managed Waterway** – A waterway, including its full reach on which other water management infrastructure (dams, diversions, weirs etc.) and/or waterpower facilities exists.



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

The OWA Class EA provides the following:

### **3.1.2 New Projects on Managed Waterways**

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

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

### **Section 3.1.3**

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

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



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**Conclusion: Is the Frederick House River a Managed Waterway?**

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

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

Yours truly,

AIRD & BERLIS LLP



Scott Stoll

SS/hm

Attachments

cc: A. Chan, Xeneca (letter only)

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## MNR SITE INFORMATION PACKAGE

## Site Information Package (SIP)

**Site Information Package (SIP) for Wanatango Falls (Site Name) #4MD02(Site ID #)**

**Application Number: WSR-2007-003**

**1. Listing of "Identified Aboriginal Communities" and local Aboriginal Communities and Outcome of Preliminary District Discussion**

Identified Aboriginal Communities, or Business-to-Business Relationship	Outcome of Preliminary District Discussion
Taykwa Tagamou Nation	Letter sent in July 2009
Mattagami First Nation	Letter sent in July 2009
Matachewan First Nation	Letter sent in July 2009
Local Aboriginal Communities	Outcome of Preliminary District Discussion
Wahgoshig First Nation	Letter sent in July 2009
Flying Post First Nation	Letter sent in July 2009

**2. Maps**



Applicable Maps	Included as Attachment
Wanatango Falls, Frederick House River	Map 1



**3. Information**

Site Feature	Additional Information	Applicable Map
Aboriginal Values and Traditional Activities	Within Taykwa Tagamou Nation, Mattagami First Nation, and Matachewan First Nation area of interest.	N/A
Cultural Heritage Values	unknown	N/A
Access Points	Access via Potter Station Road to trail that provides access to the river.	Map 1
Access Road Location	Access to Potter Road via Highway 11 South.	Map 1
Forest Access Roads	Forest Access road to the west of the site is in the current Annual Work Schedule for the Abitibi River Forest.	Map 1
Existing Mining Tenure or Claims	Claims exist, area has not been withdrawn.	Can be viewed on CLAIMaps
Canoe Routes / Portages	Unknown	N/A
Land Tenure	Area on either side of Frederick House River at Wanatango Falls is Crown Land. Patent land exists upstream of Wanatango Falls.	Map 1
Other Industrial/ Commercial Activities	None	N/A
Parks and Protected Areas	None	N/A
Settled Areas	Unknown. There is patent land near the site. It is unknown as to whether the land is currently settled.	Map 1
Tourism/Cottaging	Area is common for hunting, fishing, and snowmobiling.	Map 1



Site Feature	Land Use Additional Information	Applicable Map
Trails (snowmobiling, skiing, hiking)	Ontario Federation of Snowmobile Clubs loop trail L103 to the north of site.	Map 1
Transmission Line Route Location	Transmission line is to the east of the site along the Highway 11 corridor.	Map 1
Trapping, Baitfish Harvesting and Bear Management Agreement Activities	Area within one trapline (CC033) Area within two bear management areas (CC-30-011, CC-30-016) Area within one baitfish licence (CO2249)	Map 1
Resource Management Plans	Within the Abitibi River Forest Management Plan (Contingency Plan 2010-2012)	N/A
Existing Water Management Plan(s)	Abitibi River Water Management Plan	N/A
Wild Rice Harvesting	Unknown	N/A
Generic Waterpower Lease Agreement (WPLA)	Unknown	N/A

Site Feature	Natural Environment Additional Information	Applicable Map
Invertebrate and Invertebrate Habitat	 G:\ MacRitchie_1984.PDF Fiset -- Taxonomic list of aquatic invertebrates collected in the Moose River Basin. NESI TR-023.  Fiset -- A review of aquatic invertebrate studies conducted in Moose River Basin. NES TR-024.	
Fish species present and Fish Habitat	MacRitchie 1984. 2009 Frederickhouse RIN Project -- in prep.   E:\My Documents\ Fish Literature\Seyler	
Forestry	Abitibi River Forest ( formerly Driftwood FMU ) Contingency Plan 2010- 2012	
Vulnerable/Threatened/ Endangered Species (Aquatic/Terrestrial)	NHIC database.	
Wildlife species present and Wildlife Habitat	Unknown.	
Other Habitat Considerations	Maintenance of existing aquatic and terrestrial habitat diversity.	
Provincial Significant Wetlands	Unknown. No wetlands have been evaluated.	
Water Quality	Unknown.	
Flow Regime Characteristics	Natural Flow Metric Sheets	

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Areas of Known Erosion	MacRitchie 1984.	

#### 4. Information Gaps

Site Feature	Land Use Information Gap	Applicable Map
Canoe Routes/Portages	It is unknown is this section of the Frederick House River is currently used as a canoe route.	
Settled Areas	Patent land exists along the Frederick House River. It is unknown if any of the land is currently occupied with homes or cottages.	
Wild Rice Harvesting	It is unknown is areas upstream or downstream of Wanatango Falls is used for Wild Rice Harvesting.	

Site Feature	Natural Environment Information Gap	Applicable Map
Wildlife species present and Wildlife Habitat	Species and habitat present in the Wanatango Falls area is currently unknown.	
Provincial Significant Wetlands	Wetlands in this area have not been evaluated and therefore it is unknown if provincially significant wetlands are present.	
Water Quality	Currently the water quality for the Frederick House River around Wanatango Falls is unknown.	

#### 5. Potential Stakeholders

Site Feature	Land Use Potential Stakeholders	Applicable Map
Aboriginal Values and Traditional Activities	Taykwa Tagamou Nation (TTN), Mattagami First Nation, Matachewan First Nation. Potentially Wahgoshig and Flying Post First Nations.	
Sustainable Forest Licence Holder	Abitibi River Forest Management Inc.	
Access Road Location Canoe/Portage Cottages Land Tenure Tourism Trails	Ministry of Transportation Unknown Unknown Unknown private land owners upstream of site Unknown users of river for boating/canoeing, Ontario Federation of Anglers and Hunters Local trapper, Ontario Federation of Anglers and Hunters, Unknown	
Adjacent Dams	Frederick House Lake Dam is upstream of Wanatango Falls and operated by OPG. Island Falls is the next dam downstream in the watershed and is on the Abitibi River. Island Falls Dam is operated by Abitibi Bowater.	

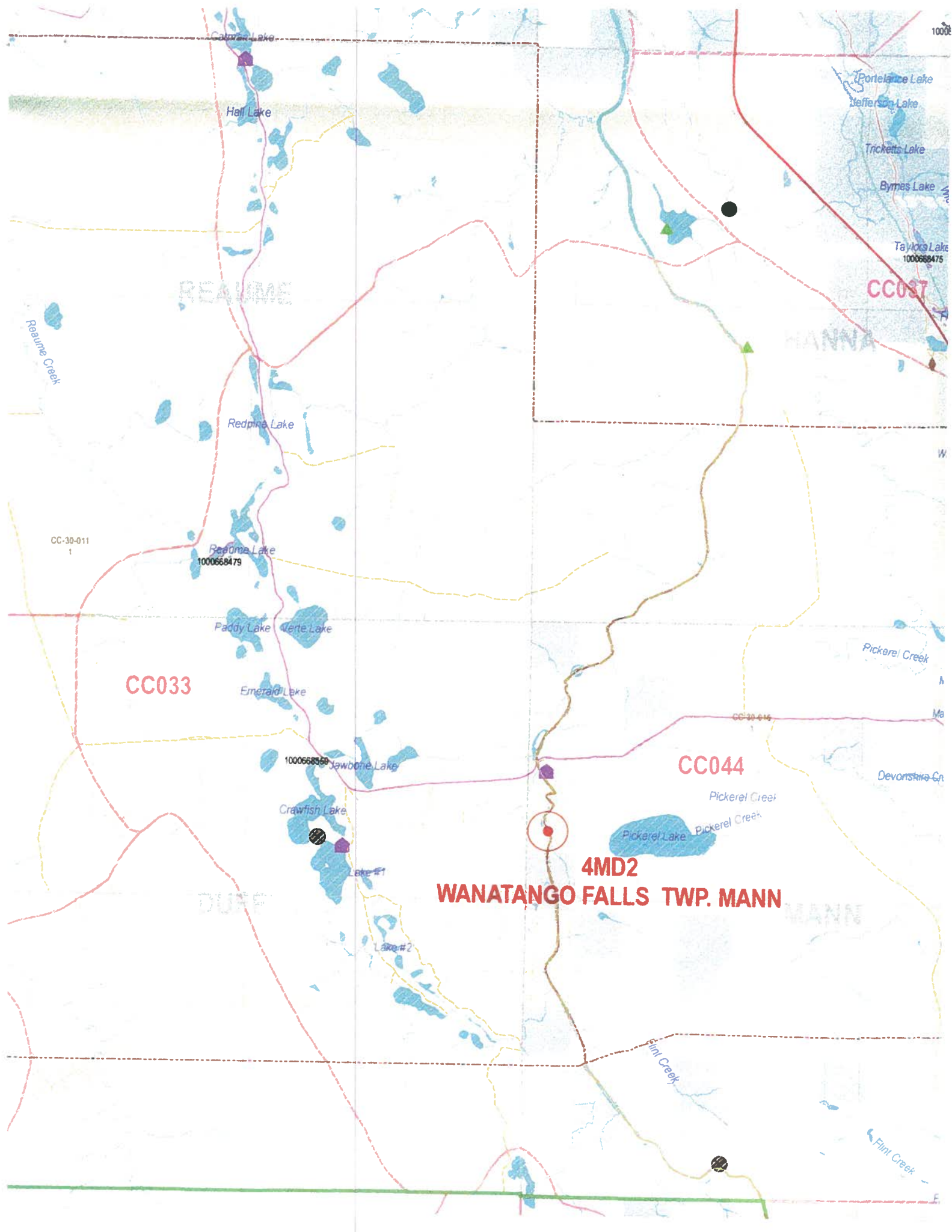
## 6. Flow Metrics Data

Information regarding Flow Metrics Data will be provided by MNR if available.

## 7. Listing of Permits and Approvals Required

Permits and Approvals
Environmental Assessment Requirements for Electricity Projects (O.Reg 116/1) – Ministry of Environment (MOE)
Environmental Assessment Requirements – Canadian Environmental Assessment Agency
Permit to Take Water – (MOE) (OWRA)
Ministry of Environment C of A (Sewage Works)
Work Permit under the <i>Public Lands Act</i> – Ministry of Natural Resources (MNR)
Land Use Permit under the <i>Public Lands Act</i> – (MNR)
Lakes and Rivers Improvement Act Approval – (MNR) – Location Approval and Plans & Specification Approval
Lakes and Rivers Improvement Act – (MNR) – Dam Operations Plan, Water Management Plan Approval
Crown Easement under the <i>Public Lands Act</i> – (MNR)
Water Management Planning Requirements – (MNR)
Burn Permit under the <i>Forest Fire Protection Act</i> – (MNR)
Authorizations under the Fish and Wildlife Conservation Act to destroy beaver dams, dens of furbearing mammals or bears and the nests of eggs of birds. - MNR
Licence of Occupation of Crown Land under the <i>Public Lands Act</i> - MNR
MNR Waterpower Lease Agreement
Archaeological Approvals – Ministry of Culture and Recreation
Planning Act considerations – if project involves private land – Ministry of Municipal Affairs and Housing
Fisheries Act Approval – Fisheries and Oceans Canada (DFO)
Blasting Approval in aquatic environment – (DFO)
Fish Habitat Authorizations under the <i>Fisheries Act</i> – (DFO)
Navigable Waters Protection Act Approval – Approval for Works (Coast Guard)
Approvals for water crossings – Fisheries and Oceans Canada
Temporary Magazine Licence, required for purchase and storage of explosives for blasting – Natural Resources Canada
Approval for Construction within Navigable Waters – Canadian Coast Guard
Navigable Waters Protection Act Approval – Transport Canada
Ministry of Labour Notice of Project
Ontario Energy Board Generator's Licence
Hydro-One Customer Impact Assessment
IESO System Impact Assessment
Approvals to connect to IESO transmission grid
Interconnection Agreement with Hydro One
Landowner agreements for access
Leases or Agreements for lands for the transmission lines or for flooded areas
Building Permits issued by the local Municipality
Other Federal, Provincial and/or Municipal permits or approvals as required

**Note:** Through the environmental assessment and approval processes additional information requirements may be identified.



REARME

MANN

DUFF

MANN

CC033

CC037

CC044

4MD2  
WANATANGO FALLS TWP. MANN

Calvin Lake

Hall Lake

Porter Lake

Jefferson Lake

Tricketts Lake

Byrnes Lake

Taylors Lake  
1000668475

Redpine Lake

Redpine Lake  
1000668479

Paddy Lake

Verte Lake

Emerald Lake

1000668560  
Jawbone Lake

Crawfish Lake

Lake #1

Lake #2

Pickarel Creek

Devonshire Cr.

Pickarel Creek

Pickarel Lake  
Pickarel Creek

Flint Creek

Flint Creek

CC-30-011  
1

CC-30-016

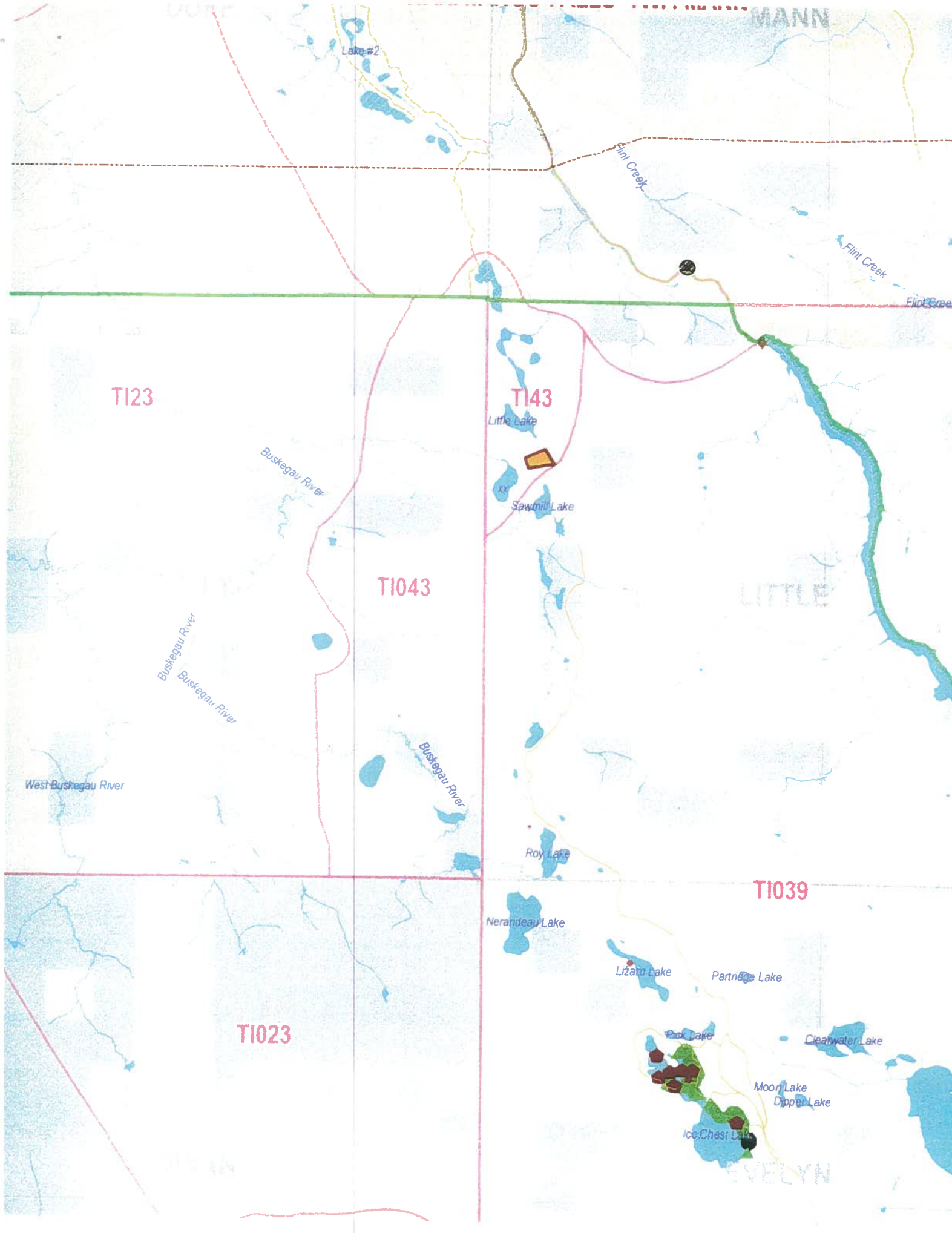
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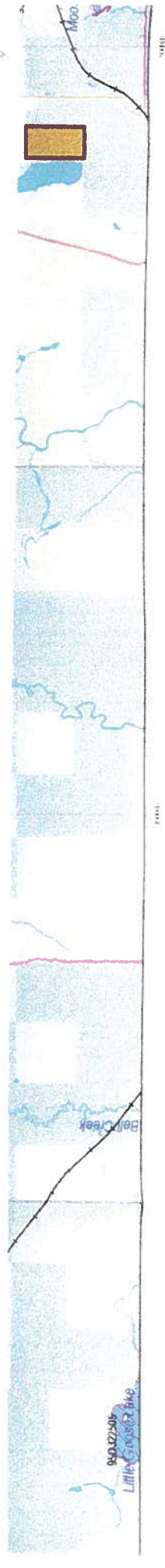
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Proposed Site	Licensed Bail Harvest Areas	Roads	Trails
Proposed Site	Bear Management areas	unclassified	All Terrain Vehicle
Access Point	Trapline boundary	Major Highway, Paved	Canoeing
Boat Cache, Commercial	Authorized Aggregate Site	Arterial Highway, Paved	Cross-Country Ski
Boat Cache, Private	Wild Rice	Local / Street, Paved	Hiking
Boathouse		Local / Street, Gravel	Portage
Clubhouse		Resource / Recreation, Gravel	Snowmobile
Designated Camping Site		Resource / Recreation, Unsurfaced	Trapline
Picnic Site			
Cottage Residential Area			
Cottage Residential Site			
Potential Tourism Area			
Recreation Camp			
Tourism Establishment Area			
Water Lot - Point Layer			
Nesting Site			





Railway  
Utility lines

Communication Line  
Power Transmission Line

- Pipeline
- Crown Land Unpatented
- Tenure Pending
- Patent Land
- Federal Land Other
- First Nation Reserve
- MNR District boundary
- Township boundary



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### Notes / Notes

Universal Transverse Mercator Projection  
Zone 17  
North American Datum 1983

This map is illustrative only. Do not rely on it as being a precise indicator of routes, locations of features, nor as a guide to navigation.

Source of information – Ontario Ministry of Natural Resources District files – compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries.

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