

*A Study of the Past, Present
and Future of Water
Management on the Trent-
Severn Waterway National
Historic Site of Canada*

Legislative Review

*Prepared for:
Parks Canada Agency*

By:



May 31, 2007

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1.0 Introduction

The Trent-Severn Waterway National Historic Site of Canada (TSW or “the Waterway”) is a 386 km navigable waterway that runs through inland waters of central Ontario from Trenton on Lake Ontario to Port Severn on Georgian Bay. The main channel of the Waterway follows the course of the Trent, Otonabee, and Severn Rivers, their associated lakes and artificial canal cuts. There are numerous secondary channels that permit navigation into Stoney, Scugog and other lakes. Trans-navigation is facilitated by an array of single lock chamber, flight and lift locks as well as a large-scale marine railway.

While only a small fraction of the Waterway is a made system, navigational draughts and water flows are maintained by human intervention by drawing water from two watersheds, the areas of which cover more than 18,000 square kilometres. The two watersheds (Figure 1-1), the Trent and Severn, are located primarily north of the main route of the navigation channel and drain into the main river systems.

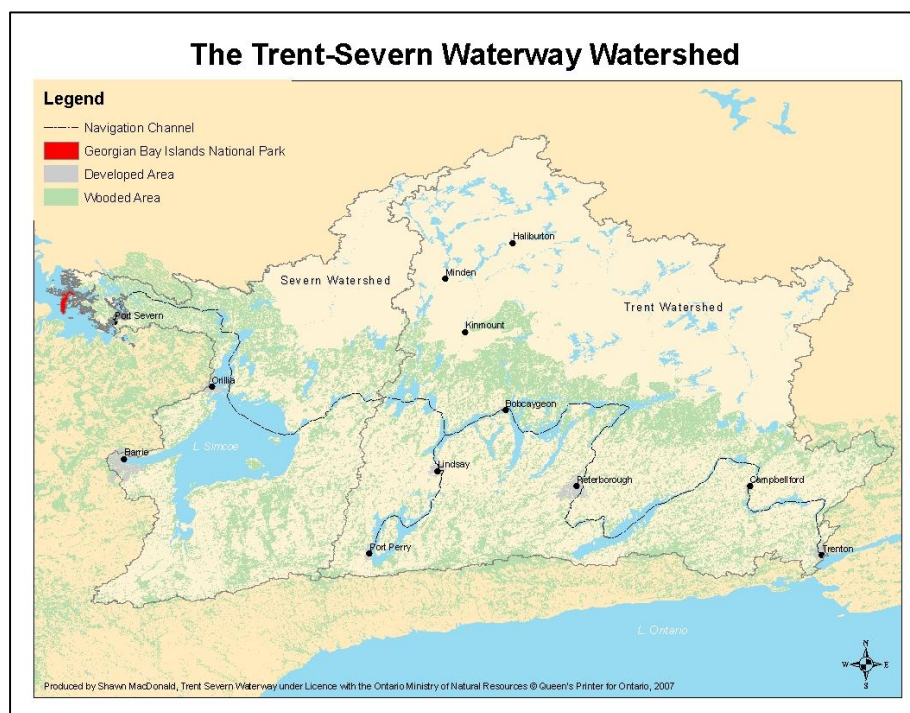


Figure 1-1 Watershed of the Trent-Severn Waterway
(Source: Parks Canada)

In order to permit marine navigation, water levels have, by necessity, been regulated in some form or another by the more than 160 dams in the watershed area. This was facilitated, in part, by the transfer of the rights to use and regulate the waters in the northern reservoir lakes and rivers from the usual owner, the Provincial government, to the Federal government by an exchange of Orders-in-Council in 1905 and 1906.

Throughout the years, water has been regulated and apportioned by Parks Canada (or its predecessors) alone using the primacy of marine navigation on the main channel of the Waterway as the overarching principle. As has been the case with the settlement of much of southern Ontario, however, growing consideration has had to be given to emerging concerns and desires for use of the water by other interests, including but not limited to hydro-electric generation, natural habitat for various aquatic and land based animals, potable water supply, recreation and for the use and enjoyment of shoreline residents, all the while providing for flood mitigation. Over time, society's expectations of the "benefits" delivered by the system and its management have clearly expanded and become more complex. In addition, new challenges are on the horizon, notably those related to public policy initiatives associated with clean water, renewable energy, and ecological sustainability.

What has emerged is a realization that the early mandates, jurisdiction, equipment, organization, and the principles by which the water is managed are not meeting all the expectations of all stakeholders. In order to address the growing discrepancy between current management practices and present and future societal demands, Parks Canada is undertaking a major review of the management of the Waterway. This review of current management challenges seeks to answer the questions:

1. How did the Waterway arrive at the current policy and operational position?
2. What are the problems and issues?
3. How might the management of the Waterway be adjusted to address these problems and issues in the future?

2.0 Purpose

As background to the TSWMPR, this report documents the evolution of ownership and jurisdiction of the TSW. It summarizes:

- the process through which the Federal government obtained jurisdictional control over navigation;
- the transfer of Waterway lands to the Federal government;
- legislative and regulatory authorities that are central to the management of the Waterway;
- other legislative and regulatory authorities that must be considered in any future management model;
- Federal policy that guides the management of the Waterway; and
- relevant Provincial legislation and policy and have an influence over private and municipal use of water on the Waterway.

This report also documents the evolution of Federal responsibility for the administration of the TSW.

3.0 Approach and Methodology

The key pieces of legislation and policy are categorized into those that are central to the ownership and control of the Waterway, those that must be accommodated in any future management or governance scenario, and those that provide policy guidance. For each, the source of the document is provided along with the relevance to the Waterway and the agency or organization responsible for its administration. A short commentary is provided that gives additional context.

4.0 Legislative Review

4.1 Ownership and Jurisdiction

Table 4-1 lists relevant Federal legislation that establishes that jurisdiction over matters of navigation rests with the Federal crown. It also demonstrates that, at least in the case of the Trent River Basin and the reservoir lakes, the Trent-Severn Waterway, and its works including those in the reservoir lakes are vested with the Federal Crown. While most believe the story begins with the *British North America Act* (1867), the initial legislation was enacted much earlier. This legislation was instrumental in securing investment in infrastructure improvements related to navigation and the consolidation of responsibilities under the departments of the government of Upper Canada. The *British North America Act* (1867) ultimately placed the authority over navigation with the Federal government. It also placed the management and control of Canals and related works under the Federal government's purview. In 1905 and 1906, ownership of certain dams, canals and other works in the reservoir lakes was transferred to the Federal crown through an exchange of Orders-in-Council. These are listed as Appendix A to this report. The Federal Government is responsible for maintaining these dams "for all times".

The Federal government's responsibilities have been further confirmed through subsequent court rulings. The first occurred as early as 1919 when, on May 26, 1919, the Exchequer Court of Canada, passed judgement in a case between His Majesty the King and John M. Kilbourne. The decision states "*After the best consideration I can give to the case I am of the opinion that the whole of the River Trent from Rice Lake to the Bay of Quinte became a part of the canal system. It was essential for the construction and maintenance of the canal that the River Trent should be vested in the Crown. It was declared to be a navigable river and became a public work of Canada and in my opinion passed to the Dominion by the Confederation Act.*"

The second examination of Federal obligations was a legal opinion offered on June 21, 1996 by Susan Burgess, Legal Council for the Department of Canadian Heritage. This opinion resulted from recommendations in 1986 that consideration be given to ceasing the maintenance of navigation on the Trent River portion of the Waterway. Ms. Burgess' opinion was that such was not legally possible since the *Navigable Waters Protection Act* codified the public's right to navigate.

What is less clear is Federal ownership and jurisdiction over lands and lands under water in the Severn River area, Lakes Couchiching and Simcoe and portions of the Canal between Rice Lakes and the outlet of the Talbot River at Lake Simcoe. There is no body of legislation that we could find that clearly transfers ownership and jurisdiction in these areas as is the case with the Trent River basin.

The *British North America Act* (1867) vested any improvements made by the Province of Upper Canada, such as locks and dams, with the Federal government. It also stated that any area where river and lake improvements were undertaken using federal funding were to be placed under the ownership and exclusive jurisdiction of the Dominion of Canada. Therefore, any investment made by the Federal government to improvement navigation, such as dredging and channel improvements, construction of canals, etc. would result in ownership of the area. Ownership may also result from any expropriation activities undertaken for the purposes of navigation.

Canal and Mitchell Lakes were created as a result of flooding of lands to create the canal connections from Balsam Lake. The lands that now are the beds of Canal and Mitchell Lakes were acquired and are therefore, owned by the Waterway. The lands that were flooded and that now make up Balsam Lake are owned by the Waterway by virtue of the 1905 and 1906 orders-in-council.

In 1978, Parks Canada and the Ontario Ministry of Natural Resources commenced discussions on the ownership issues of the Trent-Severn Waterway and the Rideau Canal and in 1994 a Provincial order-in-council transferred all ownership of all lands on the Rideau Canal to Parks Canada. The decision was made to defer a similar effort for the TSW because ownership questions were far more complex than on the Rideau Canal. (W. Mitchell, pers. comm.) Wayne Mitchell, Manager of Realty Services for the TSW, points out that, while there is no articulated policy, the Province of Ontario generally treats grey areas in the Lake Simcoe, Couchiching and Severn River region as being under the jurisdiction of the Waterway (W. Mitchell, pers. comm.). In order to establish clearly which areas were acquired through such investments or expropriation activities, a comprehensive search of the Federal archives and departmental files would be required. This is beyond the scope of this project.

Mitchell also advised that discussions held over the years between, provincial officials and officials of the TSW have concluded that four areas that are clearly not under Federal jurisdiction are:

1. Otonabee River between Nassau Mills and the north face of the Hunter Street bridge in Peterborough;
2. Tea Lake in the Lower Severn River;
3. Trent River in front of lots 1 and 2, concession 3, Sydney Township, Hastings County, (Patented to Captain John Walden Meyers on May 13, 1803) (Sonoco Dam); and
4. Part of the Severn River from Washego Dam along the river to Severn Bridge.

Table 4-1 Evolution of legislation relevant to the ownership and jurisdiction of the TSW

Date	Legislation	Source	Relevance	Administrator
1833	3 William IV, Chapter 32, Statute of Upper Canada, February 13, 1833	W. Mitchell, pers. comm.	This Act appointed 7 Commissioners and authorizes them to improve the navigation on certain inland waters, namely the Otonabee River and the waters leading from Mud Lake, now Chemong Lake, to Scugog Lake.	
1833	3 William IV, Chapter 33, Statute of Upper Canada, February 13, 1833	W. Mitchell, pers. comm.	Authorized the Receiver General to raise £ 2,000.00 by loan to be used towards the improvement of the inland waters in the District of Newcastle.	
1836	6 William IV, Chapter 35, Statute of Upper Canada, November 28, 1836.	W. Mitchell, pers. comm.	This Act authorized the Commissioners to raise £ 16,000.00 by warrants for improvements at Healey Falls, Crooks' Rapids (Hastings), the Otonabee River below Peterborough, the outlet of Buckhorn Lake, Bobcaygeon, and Purdy's Mills (Lindsay). It also authorized the Commissioners to grant leases for hydraulic power production.	
1837	7 William IV, Chapter 53, Statute of Upper Canada, March 4, 1837.	W. Mitchell, pers. comm.	This Act amended parts of 3 William IV, Chapter 32 and decreased the number of Commissioners in charge of the inland waters improvement from 7 to 5.	
1837	7 William IV, Chapter 63, Statute of Upper Canada, March 4, 1837.	W. Mitchell, pers. comm.	This Act specified that the improvements on the Trent River shall be in accordance with Executive Government's direction.	
1837	7 William IV, Chapter 66, Statute of Upper Canada, March 4, 1837.	W. Mitchell, pers. comm.	This Act authorized the raising of a further £ 77,507.00 by debenture for the improvement of the navigation between the Bay of Quinte and Rice Lake.	
1839	2 Victoria, Chapter	W. Mitchell, pers. comm.	This Act authorized the issuing of warrants to raise an additional	

Date	Legislation	Source	Relevance	Administrator
	55, Statute of Upper Canada, May 11, 1839.	comm.	£3,000.00 for the improvements authorized by 6 William IV, Chapter 35. November 28, 1836.	
1841	4 and 5 Victoria, Chapter 38, Statute of the Province of Canada, August 17, 1841.	W. Mitchell, pers. comm.	This Act established a Board of Works in and for the Province of Canada.	
1841	4 and 5 Victoria, Chapter 28, Statute of the Province of Canada, September 18, 1841.	W. Mitchell, pers. comm.	This Act authorized the raising of £1,659,682.00 by debentures to complete certain public works in the Province of Canada, £50,000.00 of which are allocated to the improvement of the internal waters of the Newcastle District. This Act also transferred the rights, powers, etc. from the Commissioners and Directors to the Board of Works. (Note: Newcastle District included Durham, Northumberland, and Peterborough Counties.)	
1846	9 Victoria, Chapter 37, Statute of the Province of Canada, June 9, 1846.	W. Mitchell, pers. comm.	This Act amends 4 and 5 Victoria, Chapter 38, August 17, 1841, the law which constituted the Board of Works. It enacts that there will be 2 Commissioners of the Board of Works and under their control includes the Trent works from the Bay of Quinte to Lake Scugog and Fenelon Falls.	
1847	10 and 11 Victoria, Chapter 24, Statute of the Province of Canada, July 28, 1847	W. Mitchell, pers. comm.	This Act amended 9 Victoria, Chapter 37. June 9, 1846. Among other matters, this amendment provides authority to collect tolls on the Waterway.	
1850	13 and 14 Victoria, Chapter 13, Statute of the Province of Canada, August 10,	W. Mitchell, pers. comm.	This Act amended the laws related to the public works in the Province of Canada, 9 Victoria, Chapter 37 and 10 and 11 Victoria, Chapter 24. Provides the authority to the Commissioners to acquire, including expropriate real estate, streams, waters and water-courses required for	

Date	Legislation	Source	Relevance	Administrator
	1850.		the enlargement or improvement of any public works under their management and control and to sell properties that are no longer required.	
1853	16 Victoria, Chapter 160, Statute of the Province of Canada, June 14, 1853.	W. Mitchell, pers. comm.	This Act amends the laws relating to public works. Provides for the appointment of arbitrators.	
1859	22 Victoria, Chapter 3, Statute of the Province of Canada, March 26, 1859.	W. Mitchell, pers. comm.	This Act amended and consolidated the several Acts respecting public works in the Province of Upper Canada. It replaced the Board of Works with the Department of Public Works under a Commission. The Trent works from the Bay of Quinte to Lake Scugog and Fenelon Falls are again enumerated as one of the public works involved (Same as C.S.C. 1859, Chapter 28).	
1861	24 Victoria, Chapter 4, Statute of the Province of Canada, May 18, 1861.	W. Mitchell, pers. comm.	This Act amended Chapter 28 of the C.S.C. (which is the same as 22 Victoria, Chapter 3) with respect to the powers of official arbitrators.	
1867	30 and 31 Victoria, Chapter 3, Statute of the Government of Canada. March 29, 1867. (<i>British North America Act, 1867</i>)	W. Mitchell, pers. comm. Government of Canada 2006 http://laws.justice.gc.ca/en/const/ind ex.html	In accordance with Section 108 of the Act, the public works and property of each Province enumerated in the 3 rd schedule, which includes canals (section 1) and river and lake improvements (section 5), are placed under the ownership and exclusive jurisdiction of the Dominion of Canada. The canals and works referred to are those in Schedule A of 22 Victoria, Chapter 3, Statute of the Province of Canada, March 26, 1859 and include: <ul style="list-style-type: none"> The Scugog River Navigation, and the Navigation connected therewith, viz: From the head of the Lake Scugog to Fenelon Falls, and from thence to Mud Lake and Buckhorn Rapids, by Sturgeon, Pigeon and Buckhorn Lakes. Provided always, that this shall not divest the proprietors of the hydraulic privileges 	

Date	Legislation	Source	Relevance	Administrator
			<p>heretofore occupied, possessed or enjoyed by them or enable Her Majesty, Her Heirs or Successors to grant any new privilege to other parties.</p> <ul style="list-style-type: none"> • That portion of the Otonabee River, between Peterborough and Rice Lake, with the Lock and Dam at Whitlas' Rapids. • The Rice Lake, and the River Trent from thence to its mouth including the Locks, Dams and Slides between those points. 	
1867	31 Victoria, Chapter 12, Statute of Canada, December 21, 1867.	W. Mitchell, pers. comm. Government of Canada 2006 http://laws.justice.gc.ca/en/const/index.html	The Department (Federal) of Public Works was created by this Act. The administration and control of canals were put under this Department's purview.	Department of Public Works
1879	42 Victoria, Chapter 7, Statute of Canada, May 15, 1879.	W. Mitchell, pers. comm.	The Department of Public Works was divided into the Department of Railways and Canals and the Department of Public Works by this Act. The new Department of Railways and Canals took over the administration and control of all the Canals previously under the Department of Public Works' purview. This act was proclaimed May 19, 1879 and came into force on May 20, 1879 in accordance with OCPC # 742.	Department of Railways and Canals.
1883	46 Victoria, Chapter 5, Statute of Canada, May 25, 1883.	W. Mitchell, pers. comm.	This Act amended 42 Victoria, Chapter 7 with respect to the powers and duties of the Minister of Railways and Canals. This Act amendment transfers power from the Minister of Public Works to the Minister of Railways and Canals.	Department of Railways and Canals.
1889	52 Victoria, Chapter 19, Statute of Canada, April 16, 1889.	W. Mitchell, pers. comm.	This Act reassigned the duty of collecting tolls and dues from the Minister of Inland Revenue to the Ministers of Public Works and of Railways and Canals.	Department of Railways and Canals.

Date	Legislation	Source	Relevance	Administrator
1905	Provincial Order-in-Council, July 22, 1905.	W. Mitchell, pers. comm.	Transferred certain dams, canals, and other works on waters tributary to the Trent Valley Canal from the Ontario Department of Public Works to the Federal Department of Railways and Canals. These are listed in Attachment A.	Department of Railways and Canals.
1906	Order-in-Council PC 1642, February 16, 1906.	W. Mitchell, pers. comm.	OIC accepted works transferred to the Dominion Government by Provincial Order-in-Council dated July 22, 1905.	Department of Railways and Canals
1910	Order-in-Council PC 2079, November 25, 1910.	W. Mitchell, pers. comm.	<p>OIC transferred various wharves on the Trent system from the Department of Public Works to the Department of Railways and Canals. Wharves transferred included those at:</p> <ul style="list-style-type: none"> § Pengally's Landing § Mark St, Peterboro § Wolfe St, Peterboro § Locke St, Peterboro § Hiawatha § Birdsall § Bensford Bridge § Lakefield, § Mount Julien, § Gannon's Narrows, § Bridgenorth, § Indian River dredging, § Juniper Island, § Bewdley, § Gore's Landing, § Harwood, § Robin's Landing § Dunnett's Landing, § Hales Bridge, § Burleigh, 	Department of Railways and Canals

Date	Legislation	Source	Relevance	Administrator
			<p>§ McCracken's Landing, § Chemong Park, § Otonabee River dredging.</p>	
1916	Order-in-Council PC 2079, September 1, 1916.	W. Mitchell, pers. comm.	Transferred 4 dams on the Severn River from the Department of Public Works to the Department of Railways and Canals. The dams were Big Falls Dam and Little Falls Dam (both on the Severn River), the dam on St. John Creek and the dam on the Black River.	Department of Railways and Canals
1917	Order-in-Council PC 3427, December 24, 1917.	W. Mitchell, pers. comm.	OIC transferred various wharves on the Trent system from the Department of Public Works to the Department of Railways and Canals.	Department of Railways and Canals
1936	1 Edward VIII, Chapter 34, June 23, 1936.	W. Mitchell, pers. comm.	By this Act, the Department of Railways and Canals became the Department of Transport and the works previously under the Department of Railways and Canals came under the Department of Transport's purview.	Department of Transport
1972	Order-in-Council PC 1972-1124, May 25, 1972.	W. Mitchell, pers. comm.	Transferred various canals including the Murray and Trent Canals from the Department of Transport to the Department of Indian Affairs and Northern Development.	Department of Indian Affairs and Northern Development.
1979	Order-in-Council PC 1979-1617, June 5, 1979.	W. Mitchell, pers. comm.	<p>Transferred Parks Canada Branch which administers the Crown's ownership and control of the Murray and Trent Canals from the Department of Indian Affairs and Northern Development to the Department of the Environment.</p> <p>Department of Indian Affairs and Northern Development Land Regulations PC 1973-2493, August 21, 1973 are not rescinded and are still applicable to the management of Trent-Severn Waterway lands and property.</p>	Department of the Environment.

Date	Legislation	Source	Relevance	Administrator
1993	Order-in-Council PC 1993-1489, June 25, 1993.	W. Mitchell, pers. comm.	<p>Transfers that portion of the public service in the Department of Environment known as the Canadian Parks Service to the Secretary of State Canada.</p> <p>Department of Indian Affairs and Northern Development Land Regulations PC 1973-2493, August 21, 1973 are not rescinded and are still applicable to the management of Trent-Severn Waterway lands and property.</p>	Secretary of State Canada.
1993	Order-in-Council PC 1993-1902, 4 Nov. 1993	Lindsay St. Denis, Parks Canada Agency	Transfers that portion of the public service in Secretary of State known as the Canadian Parks Service to the Department of Communications.	Department of Communications
1994	42-43 Elizabeth II	Lindsay St. Denis, Parks Canada Agency	Establishes Department of Canadian Heritage and the transfer of national parks, national historic sites, historic canals, national battlefields, national marine conservation areas, heritage railway stations an federal heritage buildings to the new department.	Department of Canadian Heritage
1998	<i>Parks Canada Agency Act</i> , December 3, 1998 Statutes of Canada, 1998. Chapter 31	Government of Canada 2006 http://laws.justice.gc.ca/en/const/indx.html	This Act created the Parks Canada Agency, an independent Agency reporting to the Minister of Canadian Heritage.	Department of Canadian Heritage
2003	Public Service Rearrangement and Transfer of Duties Act. PC SI/2003-2081, 12 December, 2003	Lindsay St. Denis, Parks Canada Agency	Oversight of the Parks Canada Agency transferred from the Department of Canadian Heritage to the Department of the Environment.	Department of Environment

4.2 Williams Treaty

The Williams Treaty of 1923 (Government of Canada 1923) has two parts: the Treaty with the Chippewa Indians of Christian Island, Georgina Island and Rama (October 31, 1923) and the Treaty with the Mississauga Indians of Rice Lake, Mud (Chemong) Lake, Scugog Lake and Alderville (November 15, 1923). As a result, First Nations along the Waterway gave up the rights to all lands. Subsequently, by Order-in-Council dated July 28, 1960, a number of islands in Pigeon Lake, Little Bald Lake, Big Bald Lake, Buckhorn Lake, Chemong Lake, Little Mud Lake (Upper Chemong Lake), the Otonabee River, Deer Bay (Lower Buckhorn Lake), Lovesick Lake and Rice Lake were “reserved for the use and benefit of the Rice Lake, Mud (Chemong) Lake and Scugog Bands of Indians”.

4.3 Other Relevant Federal Legislation

While the above summary discusses Parks Canada’s ownership and jurisdiction over the Waterway and the reservoir lakes, there are a number of other pieces of Federal legislation that influence this mandate and, in particular, management decisions related to water flows and levels. Table 4-2 lists these pieces of legislation, along with their relevance to the management of the Waterway.

There are many other Federal Acts that have a direct bearing on future management of flows and levels along TSW. These are listed in Table 4-3 along with their relevance. Several other Acts and regulations bear on the Waterway but these are not central to water management decision-making.

Table 4-2 Other relevant Federal legislation

Date	Legislation	Source	Relevance
1953	<i>Historic Sites and Monuments Act</i> (R.S., 1985, c. H-4)	Government of Canada 2006 http://laws.justice.gc.ca/en/H-4/243690.html Mario Savard, Heritage Programs Coordinator, Historic Sites and Monuments Board of Canada (pers. comm.) Trent-Severn Waterway National Historic Site of Canada Management Plan (Parks Canada, 2000)	The Historic Sites and Monuments Board of Canada was created in 1919 by Order-in-Council to advise the Parks Branch of the Department of the Interior on the commemoration of historic sites. The <i>Historic Sites and Monuments Act</i> was passed in 1953 (reviewed in 1985); it outlined the process by which the Board advises the Minister responsible on matters relating to Canadian heritage. This Act provides the authority to designate places of national historic significance and to suitably commemorate such. The Board considered the national significance of the TSW several times between 1925 and 1988. Significant resources designated under the Act include the engineering achievements of the Peterborough Lift Lock (designated in 1979) and the Lake Simcoe-Balsam Lake section of the Waterway (designated in 1929), which includes a large number of unmodified structures dating from their original construction period 1900-1907.
1882	<i>Navigable Waters Protection Act</i> (R.S., 1985, c. N-22)	Government of Canada 2006 http://laws.justice.gc.ca/en/n-22/251715.html Transport Canada, 2006 http://www.tc.gc.ca/marinesafety/Ships-and-operations-standards/nwp/faqs.htm#purpose)	A public right of navigation exists in Canada. This right is not written anywhere; it is a Common Law right. If the waters are navigable, then the public has the right to navigate. This right can only be restricted by an act of Parliament. The <i>Navigable Waters Protection Act</i> (NWPA) is the Act that protects the right of navigation. It ensures a balance between the public right of navigation and the need to build works, such as bridges, dams or docks for example, in navigable waters. The Act provides for the prohibition to build works in navigable waters, unless the work, its site, and plans have been approved by the Minister of Transport on such terms and conditions as he deems fit. In addition, the Act provides for measures regarding removal of wreck or other obstacles to navigation and for the prohibition to throw or deposit any material in navigable waters The administration and management of the TSW must comply with the provisions of the NWPA.

Date	Legislation	Source	Relevance
			<p>Any structures crossing a waterbody designated as navigable waters shall be designed, constructed, operated and maintained to provide a minimum acceptable clearance as specified by Transport Canada. (<i>Navigable Waters Protection Act s.5, s.10</i>)</p> <p>Any channel works proposed in a waterbody designated as navigable waters shall be designed, constructed, operated and maintained in a manner that will ensure that the geometric characteristics of the existing watercourse are maintained or approximated. (<i>Navigable Waters Protection Act s.5, s.10</i>)</p> <p>During project construction, operation and maintenance, any material that may sink, such as stone, gravel, earth, etc., shall not be placed into navigable waters where there is not at least 36.6 metres of water at all times. (<i>Navigable Waters Protection Act (s.22)</i>)</p>
1985	<p><i>Dominion Water Power Act</i>. R.S., 1985, c. W-4</p> <p>Dominion Water Power Regulations C.R.C., c. 1603</p>	<p>Government of Canada 2006 http://laws.justice.gc.ca/en/W-4/264925.html</p> <p>Government of Canada 2006 http://laws.justice.gc.ca/en/W-4/C.R.C.-c.1603/94254.html</p>	<p>The Act provides the authority and Regulations provide the requirements under which the Minister may grant licence to divert, use or store water for power purposes on Federal lands.</p>
1993	<p><i>Department of Transport Act</i> Historic Canals Regulations P.C. 1993-891 4 May, 1993</p>	<p>Government of Canada 2006 http://laws.justice.gc.ca/en/t-18/sor-93-220/93103.html</p>	<p>These are regulations respecting the management, maintenance, proper use, and protection of the historic canals administered by the Parks Canada Agency. These regulations cover:</p> <ul style="list-style-type: none"> Part II Controlled activities and areas Part III Navigation Part IV Vehicles Part V Provisions respecting particular historic canals Part VI Enforcement Part VII Penalties

Table 4-3 Federal Legislation that will influence future management of the TSW

Date	Legislation	Source	Relevance
1992	<i>Canadian Environmental Assessment Act</i> (1992, c. 37)	Government of Canada 2006 http://laws.justice.gc.ca/en/c-15.2/275414.html	The purpose of this Act is to ensure that projects are considered in a careful and precautionary manner before federal authorities take action in connection with them, in order to ensure that such projects do not cause significant adverse environmental effects. A wide variety of construction, maintenance, permitting, and other activities on the Waterway are subject to CEAA. In addition, Parks Canada's policy is that even if an action is not subject to CEAA, environmental implications of such actions will be taken into consideration as if CEAA did apply.
2002	<i>Species at Risk Act</i> 2002, c. 29 [Assented to December 12, 2002]	Government of Canada 2006 http://laws.justice.gc.ca/en/s-15.3/276773.html	The purposes of this Act are to prevent wildlife species from being extirpated or becoming extinct, to provide for the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity and to manage species of special concern to prevent them from becoming endangered or threatened. This Act obliges the TSW to ensure the protection of species listed in the Act and their critical habitat. There are 33 known species listed that occur on the Waterway. Project planning and design shall be done in a manner that avoids impact on federal lands that provide critical habitat for listed wildlife species unless certain areas are excluded by the Minister, and on other lands that provide critical habitat for listed migratory and aquatic species under the federal <i>Species At Risk Act</i> s.32, s.33, s.34, s.58.
1994	<i>Migratory Birds Convention Act</i> 1994, c. 22	Government of Canada 2006 http://laws.justice.gc.ca/en/m-7.01/250946.html	The purpose of this Act is to implement the Convention by protecting and conserving migratory birds — as populations and individual birds — and their nests. Project planning, design, construction, operation and maintenance activities shall be carried out to prevent the destruction of migratory birds or their nests and minimize the release of oil, oil wastes or any other substance harmful to migratory birds to any waters or any area frequented by migratory birds (<i>Migratory Birds Convention Act</i> s.5, <i>Migratory Bird Regulations</i> s.6 and s.35). While this Act is not central to the management of the Waterway, its requirements must be taken into consideration as part of any environmental assessment. In addition, the Act

Date	Legislation	Source	Relevance
			<p>states that 5.1 (1) No person or vessel shall deposit a substance that is harmful to migratory birds, or permit such a substance to be deposited, in waters or an area frequented by migratory birds or in a place from which the substance may enter such waters or such an area.</p>
1985	<p><i>Fisheries Act</i> R.S., 1985, c. F-14</p>	<p>Government of Canada 2006 http://laws.justice.gc.ca/en/f-14/text.html</p>	<p>This Act has a major influence on the management of the Waterway. Specifically, the Act provides for the protection of fish habitat and the prevention of pollution. For example, section 35. (1) states that no person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat. Any construction or alteration of water management or flow altering structures on the waterway and all flow regimes must meet the habitat requirements of fish.</p> <p>Crossings of a waterbody that provide fish habitat at any time of the year shall be designed, constructed, operated and maintained such that no new barriers to fish passage, including physical, chemical or flow impediments (including maintaining minimum flows and depths), are created so that fish can pass and the ability for fish to pass is not reduced over time, unless authorized by Fisheries and Oceans Canada. (<i>Fisheries Act</i> s.20 (1), s.22 (1), s.22 (2), s.35).</p> <p>No harmful alteration, disruption or destruction of fish habitat is permitted unless authorized by Fisheries and Oceans Canada (<i>Fisheries Act</i> s.35 (2) – A). Destruction of any part of the critical habitat of any listed endangered or threatened aquatic species, or an extirpated species where a recovery strategy recommends reintroduction of that species to the wild, is not permitted (<i>Species At Risk Act</i> s.58 (1)(b)).</p> <p>No substance of any type that is deleterious shall be deposited in water frequented by fish, or be released or placed such that the deleterious substance could enter the water (<i>Fisheries Act</i> s.36(3)).</p> <p><u>Note: At this writing, the <i>Fisheries Act</i> is under review. Consequently, the above section numbers are likely to change.</u></p>

Date	Legislation	Source	Relevance
1999	<i>Canadian Environmental Protection Act</i> , 1999 (1999, c. 33)	Government of Canada 2006 http://laws.justice.gc.ca/en/c-15.31/225697.html	Provisions of the CEPA apply to the Waterway, the most significant being the management of contaminated sites, of which there are 3 known – Little Lake, Goose Bay (Sturgeon Lake), and the lower reaches of the Trent River. Any actions that may disturb the bed of the lake in contaminated areas must comply with the provisions of CEPA.

4.4 Evolution of Parks Canada's Role in the TSW

Robert Passfield, a former Parks Canada historian, in his report *The Heritage Canals, Status and Significance* (Passfield 1987) traces the evolution of discussions and decisions that led to the administration and control of the Rideau Canal, TSW, and other heritage canals being vested with Parks Canada.

As early as 1960, Parks Canada was involved in seeking protection of the historic structures, then managed by the Department of Transport (DOT), on the Rideau Canal. From 1964-1968, DOT was concerned about heavy pleasure boat usage on the Rideau. When public opposition reversed efforts to mechanize many of the Rideau Locks, DOT announced, in 1966, that the Rideau Canal would remain an historic waterway and the TSW would be modernized.

The Rideau and the TSW were viewed as "recreational resources" and in 1968 the Canada Ontario Rideau Trent-Severn study group was formed to examine the future of the two systems. Several management options were suggested, including creating national waterway parks but ultimately in July 1969, a submission to Cabinet recommended the transfer of six canals to the Department of Indian Affairs and Northern Development (DIAND), of which Parks Canada was a part. The Rideau Canal was recognized to be of National Historic Significance but the TSW was noted to be of regional and local historic interest. In September, 1969, an Interdepartmental Task Force on Canal Transfers, chaired by Treasury Board was established. Also in 1969, the Department proposed a new Parks Policy which advanced a new series of park categories intended to move the federal government into the "outdoor recreation" business. Cabinet rejected this incursion into matters of provincial jurisdiction on March 31, 1969 and asked that a canal transfer be developed within the context of existing policy.

The Federal Government objectives for the canals transfer were four fold:

- preserve the canals as essential links in the (non-commercial) water transportation system;
- control water levels on the Rideau, TSW for the greater benefit of all users of the system;
- develop appropriate federal provincial structures for coordinating the optimum use, development, and management of the canals, waterways, and adjacent lands; and
- preserve the historic buildings and works along the Rideau.

In July 1971, Cabinet directed the transfer of the Rideau and TSW to Parks Canada and directed that current policy on recreation be adhered to and that the systems be maintained and operated with special regard to their historic value. A subsequent DOT/DIAND Memorandum to Cabinet recommended a shift of emphasis from transportation to:

- historic restoration;
- preservation;
- interpretation;

- natural environment preservation and interpretation; and
- optimum use of federal lands. (“optimum use” was envisioned as public outdoor recreational enjoyment).

On June 1, 1972 the Canals were transferred to Parks Canada. Subsequently, a new canals unit was established within the Parks Service. A number of internal organizational changes were carried out from 1973-1979, and ultimately in 1984 the administration of Canals was transferred to the Historic Sites Branch of Parks Canada where it remains today.

4.5 Federal Policy

The *Parks Canada Guiding Principles and Operational Policies* (Parks Canada 1994) is a comprehensive policy document that guides the management of all Parks Canada Agency activities including the Waterway. There are several parts that bear on the Waterway.

- Part I provides a policy overview and a set of guiding principles.
- Part II sets out activity policies, two of which are directly applicable.
 - The first is the National Historic Sites Policy that guides the management and protection of sites of national historic significance.
 - The second is the Historic Canals Policy which guides the management and operation of all of Canada’s historic canals.
- Part III provides the Agency’s Cultural Resource Management Policy. This guides the management of cultural resources whether these are of national (Level I) or local (Level II) significance.

Table 4-4 gives selected highlights of this corporate policy.

Table 4-4 Selected summary of the Parks Canada Guiding Principles and Operational Policies

Date	Policy	Source	Relevance
1994	Parks Canada Guiding Principles and Operational Policies	Parks Canada Agency 1994 http://www.pc.gc.ca/docs/pc/poli/princip/index_E.asp	<p>Part I - Policy Overview and Guiding Principles Parks Canada contributes at the international, national and local levels to sustaining cultural and natural heritage through a continuing commitment to the following principles. Ensuring commemorative integrity and protecting ecological integrity are always Parks Canada's paramount values in applying these principles as well as the more detailed activity policies. Key principles include:</p> <ol style="list-style-type: none"> 1. Ecological And Commemorative Integrity 2. Leadership And Stewardship 3. New Protected Heritage Areas 4. Education And Presentation 5. Human - Environment Relationship 6. Research And Science 7. Appropriate Visitor Activities 8. Public Involvement 9. Collaboration And Cooperation 10. Accountability <p>Part II - Activity Policies: National Historic Sites Policy These policies cover: Background Objectives Commemorating Canada's Past</p> <ol style="list-style-type: none"> 1.0 Roles and Responsibilities 2.0 Determining National Historic Significance 3.0 Forms of Commemoration

Date	Policy	Source	Relevance
			4.0 Rescinding Commemoration Protecting And Presenting National Historic Sites (See Part III, Cultural Resource Management Policy)
			<p>Part II Activity Policy: Historic Canals Policy Background Objective</p> <ul style="list-style-type: none"> 1.0 Navigation 2.0 Resource Management 3.0 Appropriate Use 4.0 Working with Others <p>The polices related to navigation read as follows: 1.0 Navigation The canals covered by this policy are distinguished from other canal sites administered by Parks Canada because they are operated for purposes of through navigation as well as for their heritage values.</p> <hr/> <p>1.1 Providing for Navigation</p> <p>1.1.1 Navigation forms an important part of the heritage character and heritage experience that these canals provide. However, structures, operating devices and procedures will not be modified to increase the capacity of historic canals.</p> <p>1.1.2 The following considerations will guide the provision of navigation: availability of adequate water levels, maintenance of public safety, preservation of heritage character, physical condition of the works, time of year, demand, and available human and financial resources.</p> <p>1.1.3 Where navigation is maintained, Parks Canada objectives will be to maintain adequate canal water depths, structures and navigation aids in order to provide for navigation.</p> <p>1.1.4 Water levels and flows required for navigation on the canals will be monitored and</p>

Date	Policy	Source	Relevance
			managed to minimize flooding and adverse resource impacts. 1.1.5 Canals that become non-navigable are no longer subject to the provisions of this policy, but will continue to be managed in accordance with other Parks Canada policies.
			Part III - Cultural Resource Management Policy Background Objective 1.0 Principles of Cultural Resource Management 2.0 The Practice of Cultural Resource Management 3.0 Activities of Cultural Resource Management
1991	Federal Policy on Wetland Conservation	Government of Canada, 2006 http://dsp-psd.pwgsc.gc.ca/Collection/CW66-116-1991E.pdf	Project planning, design, construction, operation, and maintenance activities shall achieve no net loss of wetland function for wetlands where loss has reached critical levels, and the wetland is located on federal lands or the initiative requires federal approvals or is receiving federal funding (<i>Federal Policy on Wetland Conservation, Strategy 2</i>).

4.6 Provincial Legislation

Generally Provincial legislation applies to activities on the TSW, including the reservoir lakes, unless there is conflicting Federal legislation, in which case, the latter applies. Some of the more relevant pieces of provincial legislation and policy are listed in Table 4-5. They include:

- *Lakes and Rivers Improvement Act*
- *Ontario Water Resources Act*
- *Public Lands Act*
- *Conservation Authorities Act*
- *Environmental Protection Act*
- *Fish and Wildlife Conservation Act, 1997*
- *Ontario Heritage Act*
- *Endangered Species Act*
- *Planning Act*
- *Assessment Act*
- Wetland Policy

Table 4-5 Relevant Provincial legislation

Date	Legislation	Source	Relevance
1990	<i>Lakes and Rivers Improvement Act</i> R.S.O. 1990, Chapter L.3	Government of Ontario 2006 http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90I03_e.htm#BK3	<p>The purposes of this Act are to provide for,</p> <ul style="list-style-type: none"> (a) the management, protection, preservation and use of the waters of the lakes and rivers of Ontario and the land under them; (b) the protection and equitable exercise of public rights in or over the waters of the lakes and rivers of Ontario; (c) the protection of the interests of riparian owners; (d) the management, perpetuation and use of the fish, wildlife and other natural resources dependent on the lakes and rivers; (e) the protection of the natural amenities of the lakes and rivers and their shores and banks; and (f) the protection of persons and of property by ensuring that dams are suitably located, constructed, operated and maintained and are of an appropriate nature with regard to the purposes of clauses (a) to (e). 1998, c. 18, Schedule. I, s. 23. <p>Surface water conveyance and management measures designed, constructed, operated and maintained by a private company in a waterbody governed by the <i>Lakes and Rivers Improvement Act</i> should not temporarily or permanently dam a waterway or alter a watercourse's bed or banks. Any measures that will create a temporary or permanent dam across a waterbody governed by the <i>Lakes and Rivers Improvement Act</i>, or alter the bed or banks of said waterbody, must receive a permit from the Ontario Ministry of Natural Resources prior to construction. (<i>Lakes and Rivers Improvement Act</i> s. 2.3.1, 2.3.2, 2.3.3).</p> <p>Note: this Act does not apply on Federal lands but applies to reservoir lakes and tributary waters.</p>
1990	<i>Ontario Water Resources Act</i> R.S.O. 1990, Chapter	Government of Ontario 2006 http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90I03_e.htm#BK3	A Certificate of Approval shall be acquired from the Ontario Ministry of the Environment prior to construction by a private entity, for any surface water conveyance or management works not being constructed under either the <i>Drainage Act</i> or the <i>Public</i>

Date	Legislation	Source	Relevance
	O.40	es/English/90o40_e.htm	<p><u>Transportation and Highway Improvement Act. (Ontario Water Resources Act s.53).</u></p> <p>Project design, construction, operation and maintenance activities shall provide for groundwater source protection in terms of both quality and quantity and recognize vulnerable or sensitive (highly vulnerable) aquifer zones and wellhead protection zones as defined by the Ministry of the Environment (designated Director) and in <i>Municipal Official Plans. (Ontario Water Resources Act s.33.)</i></p> <p>A Permit-To-Take-Water from the Ministry of the Environment shall be obtained by a private entity for the taking of water over 50,000 L/day from any given source, whether temporary or permanent for any purpose (<u>Ontario Water Resources Act s.34).</u></p> <p>The Act provides authority for the Minister to issue permits for taking of water from the TSW for domestic or farm purposes. The Act also requires a permit for large scale diversions of water. There is potential for one level of government (Provincial) to be authorizing the taking of water without the knowledge of another level of government (Federal) that has overall management responsibility for the Waterway.</p> <p>There shall be no release, discharge, or addition to: surface water or groundwater, of a contaminant that may impair water quality as defined by <u>Ontario Water Resources Act (s.28).</u></p>
1990	<i>Public Lands Act</i> R.S.O. 1990, Chapter P.43	Government of Ontario 2006 http://www.es/English/90p43_e.htm	This Act is relevant in that it governs how the bed of reservoir lakes tributary waters can be used. It is managed by MNR.
1990	<i>Conservation Authorities Act</i> R.S.O. 1990, Chapter C.27	Government of Ontario 2006 http://www.es/English/90c27_e.htm	Provides the authority for the establishment and management of Conservation Authorities. Construction by a private company in an area that falls under the jurisdiction of a Conservation Authority, requires a “Fill, Construction and Alterations to Waterways Permit” to be obtained prior to the construction of any works that will result in alterations to the waterbody, construction of a structure in an area susceptible to

Date	Legislation	Source	Relevance
			<p>flooding and/or the placement of fill such that the control of flooding or pollution, or the conservation of land will be affected. (<i>Conservation Authorities Act</i> (s.28)).</p> <p>Note: the Heritage Canal Regulations over-ride the <i>Conservation Authorities Act</i> for activities on Federal lands.</p>
1990	<p><i>Environmental Protection Act</i> R.S.O. 1990, Chapter E.19</p>	<p>Government of Ontario 2006 http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90e19_e.htm</p>	<p>There shall be no release, discharge or addition to: the natural environment (land, surface water, groundwater or air) of a contaminant that may cause adverse effects as defined by the Ontario <i>Environmental Protection Act (Part II s. 14(1))</i>.</p> <p>No land or land covered with water, which was used for the disposal of waste within the past 25 years, may be used for the construction of a facility without first receiving approval from the Minister of the Environment (Ontario <i>Environmental Protection Act Part V s.46</i>).</p> <p>Any abnormal discharge (spill) of a substance into the natural environment shall be reported to the Ministry of the Environment Spills Action Centre (SAC), and cleaned up as quickly as possible, given the circumstances surrounding the discharge, by the person(s) having control of the discharge. Every practicable effort shall be taken to prevent, eliminate and ameliorate the adverse effect and to restore the natural environment (Ontario <i>Environmental Protection Act Part X s.91, s.92 and s.93</i>).</p> <p>Note: If the Ontario Ministry of the Environment requires a permit for taking water under the <i>Ontario Water Resources Act</i>, the granting of a permit can trigger the <i>Environmental Protection Act</i>.</p>
1997	<p><i>Fish and Wildlife Conservation Act</i>, 1997 S.O. 1997, Chapter 41</p>	<p>Government of Ontario 2006 http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/97f41_e.htm</p>	<p>Project planning, design, construction, operation and maintenance activities by a private entity shall recognize the need to protect wildlife species identified in the schedules in the <i>Fish and Wildlife Conservation Act</i> (s.5(1) & s.7(1)).</p> <p>Note: provisions related to fishing, hunting and trapping licences apply on the Waterway since these authorities are delegated to the Province by Federal statute (e.g., <i>Fisheries</i></p>

Date	Legislation	Source	Relevance
1990	<i>Ontario Heritage Act</i> R.S.O. 1990, Chapter O.18	Government of Ontario 2006 http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90o18_e.htm	Act). Removal or demolition of cultural heritage resources designated under the <i>Ontario Heritage Act, Part IV or V</i> , recognized or protected by the Ontario Heritage Foundation, the Canadian Register of Historic Places, the National Historic Sites and Monuments Board, the Federal Heritage Building Review Office (FHBRO) and/or listed on municipal heritage inventories shall not occur unless approved through the Environmental Assessment approval process. (<i>Guideline for Preparing the Cultural Heritage Component of Environmental Assessments</i> , 1992; <i>Ontario Heritage Act</i>). Archaeological resources that may be disturbed by project design investigations, construction, operation or maintenance shall be identified and conserved to the satisfaction of the Ministry of Culture, in accordance with the <i>Ontario Heritage Act</i> .
1990	<i>Endangered Species Act</i> , R.S.O. 1990, Chapter E.15	Government of Ontario 2006 http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90e15_e.htm	Project planning, design, construction, operation and maintenance activities shall be done in a manner that avoids habitat for species designated by regulation under the <i>Ontario Endangered Species Act</i> (s.5). The Province of Ontario has listed 34 species occurring on the Waterway under its Species at Risk program.
1990	<i>Assessment Act</i> , R.S.O. 1990, c. A.31	Government of Ontario 2006 http://www.e-laws.gov.on.ca:81/ISYSquery/IRLC27B.tmp/1/doc	Disposal of properties must be carried out in accordance with the provisions of the Provincial Assessment Act.
1990	<i>The Planning Act</i> R.S.O. 1990, Chapter P.13 And Provincial Policy Statements	Government of Ontario 2006 http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90p13_e.htm	Private projects shall be done in a manner that avoids, or if avoidance is not possible minimizes, encroachment on significant portions of the habitat of threatened and endangered species (<i>Provincial Policy Statement</i> , s.2.3.1,2.3.2, 2.3.3). Private projects shall be done in a manner that avoids significant wildlife habitat, as defined in the <i>Significant Wildlife Habitat Technical Guide</i> (Ministry of Natural

Date	Legislation	Source	Relevance
			<p>Resources, 2000). (<u>Provincial Policy Statement (s.2.3)</u>).</p> <p>Project planning, design, construction, operation and maintenance activities shall be carried out in a manner that maintains the diversity of wildlife habitat in an area and natural connections between them, unless otherwise approved through the Environmental Assessment approval process (<u>Provincial Policy Statement s.2.3</u>).</p> <p>Project planning, design, construction, operation and maintenance activities shall avoid the loss of wetland features and functions, unless approved through the Environmental Assessment approval process (<u>Provincial Policy Statement s.2.3.1, s.2.3.2, s.2.3.3</u>).</p> <p>Note: Provisions of the <i>Planning Act</i> apply in the case of the disposal of Crown lands.</p>
	Wetland Policy		<p>This document is issued under section 3 of the <i>Planning Act</i> and is the Province of Ontario's Policy Statement on planning for the protection of wetlands within the province. This Policy Statement is issued jointly by the Ministry of Natural Resources and Ministry of Municipal Affairs.</p> <p>The objective of this Policy Statement is two-fold:</p> <ul style="list-style-type: none"> • ensure that no loss of area or function of provincially significant wetlands occurs within the Great Lakes - St. Lawrence Region and the Boreal Region by prohibiting new development and land uses in such wetlands; and • ensure that only compatible development and land uses are permitted on lands adjacent to provincially significant wetlands or within other wetlands in the Great Lakes - St. Lawrence Region and the Boreal Region.

5.0 Conclusions

From the review of literature and file material possible within the scope of this project and interviews with TSW employees the following is concluded:

5.1 Ownership and Jurisdiction

1. There is no clear, concise single document that delineates the jurisdictional boundaries of the Trent-Severn Waterway. There are several Acts, Orders-in-Council, correspondence, and actions by both the federal and provincial governments that have been used to define the administrative margins and limits of the Waterway.
2. Ownership and jurisdiction regarding the bed of the main navigation lakes and rivers within the Trent River, from Trenton to Rice Lake are clearly vested with the Federal government.
3. Ownership and jurisdiction regarding the dams of the reservoir lakes of the Gull River, Burnt River, Nogies Creek, Mississauga Creek, Eels Creek and Jack Creek watersheds are clearly vested with the Federal government.
4. With the exception of Balsam, Canal, and Mitchell Lakes, the extent of ownership and jurisdiction of beds of lakes and rivers of the balance of the Waterway is less clear and can only be determined through the courts in the event of contrary opinion.
5. All canals, locks, dams and related structures constructed are clearly owned by Parks Canada by virtue of the *BNA Act (1867)* and land acquisitions. These include all artificial canals joining lakes and rivers that were constructed to complete navigation connections and areas where dredging or channel improvements were undertaken to improve navigation. Whether or not the *BNA Act (1867)* was intended to cover the constructed improvements only is unclear.
6. There are several properties that have been acquired or expropriated but a comprehensive inventory was not available.
7. Ownership of the water is another area of uncertainty although there is evidence that this falls under federal control through the *BNA Act* and the 1905 Provincial Order-in-Council. Despite this evidence, the Province continues to exercise some jurisdiction through the *Ontario Water Resources Act*.

5.2 Policies and Legislation

1. All Federal legislation applies to the Trent-Severn Waterway.
2. Provincial legislation applies on the Waterway unless there is conflicting Federal legislation in which case the Federal legislation takes precedent.
3. The key legislation is the *Department of Transport Act* and the Historic Canals Regulations.
4. The Parks Canada Guiding Principles and Operating Policies are the over-riding policy guidance on the Waterway.
5. Other Federal and Provincial policies should be taken into account when considering any future management directions.

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Attachment A

PROVISIONS OF 1905 PROVINCIAL ORDER-IN-COUNCIL TRANSFERRING DAMS, CANALS, AND OTHER WORKS ON WATERS TRIBUTARY TO THE TRENT VALLEY CANAL

1. All listed locks, dams, rights in waters and flooded lands and other works:

Lock at Young's Point including swing bridge and all Ontario Government Works at Young's Point.

Lock at Balsam River

Mississauga Creek

- (1) Scott's Hill Dam
- (2) Mississauga or Gull Lake Dam
- (3) Eagle Lake Dam
- (4) Deer Lake Dam
- (5) Bottle Lake Dam

Squaw River

- (1) Dam No. 1
- (2) Dam No. 2 or Big Dam
- (3) Dam No. 3
- (4) Dam No. 4
- (5) Dam No. 5
- (6) Dam No. 6

Nogies Creek

- (1) Dam No. 1, Bass Lake
- (2) Dam No. 2 Bass Lake Rapids
- (3) Dam No. 3 Townsend Dam
- (4) Dam No. 4 Big Marsh
- (5) Dam No. 5 Swamp Lake

Burnt River Works

- (1) Piers at Mouth of River
- (2) Dam at Kinmount
- (3) Dam at Kushog
- (4) Dam at Cocklong Lake
- (5) Dam at Drag or Mud Lake
- (6) Dam at Loon Lake

- (7) Dam at Devil's Lake
- (8) Pier at Devil's Gap
- (9) Dam at White Lake
- (10) Dame at Contains Lake
- (11) Dam at Pine Lake
- (12) Dame at Big Bear Lake
- (13) Dam at Little Bear Lake
- (14) Dam at Stormy Lake
- (15) Dam at Otter Lake
- (16) Dame at Otter Creek Marsh
- (17) Dam at Grace Lake
- (18) Dam at Farquhar Lake
- (19) Dam at High Falls
- (20) Dam at Copes Falls.

Gull River Works

- (1) Dam at Norland
- (2) Dam at Elliott's Falls
- (3) Moore's Falls or Gull Lake
- (4) Dam Little Bob Lake
- (5) Dam Big Bob Lake
- (6) Dam Workmans Mill
- (7) Dam Horseshoe Lake
- (8) Dam Halls Lake
- (9) Dam Hawk Lake
- (10) Dam at Crab Lake
- (11) Dam at Paint Lake
- (12) Dam at Keneese Lake
- (13) Dam at Redstone Lake
- (14) Dam at Eagle & Moose Lakes
- (15) Dam at Oblong Lake
- (16) Dam at Percy Lake

Bear Creek Works

- (1) Dam at Big Marsh
- (2) Slide No. 1
- (3) Slide No. 2
- (4) Glance Pier

Stoney Creek Improvement

- (1) Dam No. 1
- (2) Dam No. 2

- (3) Dam No. 3
- (4) Dam No. 4
- (5) Dam No. 5
- (6) Dam No. 6

Scugog River Works

Lindsay Lock in Town of Lindsay on the Scugog River, including three swing bridges.

- 2. The Dominion Government has assume, operate and keep in good repair and condition for all time, the lock and three swing Bridges at Lindsay, the Lock at Balsam River, and the Lock and Swing Bridge at Young's Point, together with all minor works in connection with the maintenance and operation of the Locks and Brides at Lindsay, Balsam Lake and Young's Point.
- 3. The right of Reservoir construction by the Dominion Government shall be exercisable on and limited to the following: -

Gull River, Burnt River, Squaw River, Nogies Creek, Deer Bay, Mississauga Creek, Eel's Creek, and Jack's Creek, and the drainage areas of such rivers and creeks.

- 4. The following dams shall be maintained for all time by the Dominion Government:

On Gull River Waters

Balsam Lake	Keneesis Lake (modern spelling Kennisis)
Gull Lake	Redstone Lake
Horseshoe Lake	Eagle and Moose Lake
Hawk Lake	Oblong & Haliburton Lake
Paint Lake (Redpine)	Percy Lake
Hall's Lake	

On Burnt River Waters

Kocklong Lake	Otter Lake
Drag Lake	Grace Lake
Loon Lake	Farquhar Lake
Big Bear Lake	

On Nogies Creek

Swamp Lake

On Mississauga Creek

Gull Lake	Eagle Lake
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