

12.0 COMPLIANCE MONITORING PROGRAM FOR THE MATABITCHUAN RIVER

12.1 Introduction

As each WMP is completed and approved, the facility operators must operate their facilities in accordance with the provisions of the approved plan as required by proposed legislative amendments to the LRIA or with the existing authority to issue a second order requiring compliance under Section 23(1.1). The waterpower companies will be responsible for on-going self-monitoring through a Compliance Monitoring Program specified within the WMP.

Compliance is adherence to a set of rules or requirements.

Monitoring can generally be described as observing, recording or detecting an operation or condition.

Compliance monitoring is used to determine whether an operator conforms to the approved plan.

A monitoring strategy is presented in the following section. The operators are OPGI or MNR. OPGI in the case of Rabbit Lake Dam and Matabitchuan G.S. MNR is the operator of the Net Lake Dam and North Milne Lake Dam.

12.2 Monitoring Strategy Statement

The facility operators will maintain a compliance monitoring program to report on the implementation of the Water Management Plan and the Preferred Option contained within. The monitoring program will be robust enough to validate compliance with the flow and level regimes prescribed in the plan. The Monitoring Strategy includes monitoring, reporting and public involvement/awareness strategies.

12.2.1 Compliance Monitoring:

- a. The Compliance Monitoring Program (CMP) will rely on the proponents' self monitoring to ensure ongoing compliance as well as ongoing monitoring. The CMP will specify:
 - Which measurements are to be taken
 - When and why measurements are to be taken

Location	Data	Rationale	Responsibility
Net Creek Dam	Daily average water levels (DCP to be installed by MNR in 200?)	<ul style="list-style-type: none"> • Operating & absolute range • Winter drawdown • Summer band 	MNR
North Milne Lake Dam	Daily average water levels (DCP to be installed by MNR in 200?)	<ul style="list-style-type: none"> • Operating range 	MNR
Rabbit Lake Dam	Daily average water levels and flows <ul style="list-style-type: none"> • Headpond level - DCP 	<ul style="list-style-type: none"> • absolute range • Winter drawdown • Maintenance of summer band 	OPGI
Matabitchuan GS	Daily average water levels and flows <ul style="list-style-type: none"> • Headpond level – transducer • Tailrace - float 	<ul style="list-style-type: none"> • Operating & absolute range • Winter drawdown • Maintenance of summer band • Fisheries constraint 	OPGI

Owners will maintain records of all level or flow information that is required by the plan for a retention period of the term of the Matabitchuan River Water Management Plan, plus one year. It is recognized that water level measurements may be unavailable from time to time due to equipment failure or environmental conditions. Operators will notify the regulator of such equipment failure and outline a repair schedule.

OPGI will maintain data for OPGI facilities at its Northeast Control Centre and make it available to MNR upon request for audit activities.

MNR will maintain data for its facilities at the MNR regional office in the City of Timmins.

- b. MNR may undertake a limited number of compliance activities, such as monitoring of real-time water levels from time-to-time or occasional audits.

When MNR conducts an inspection or an audit they will, if possible, notify the owner/operator, within one working day of any incidents found and, provide a written inspection report to the owner/operator within 30 days of each inspection.

12.2.2 Non-Compliance Notification:

The facility operator is required to verbally notify MNR for all incidents of failing to meet mandatory components of the operating plan within 24 hours of the incident being discovered. The following is the information if available to be provided in the verbal notification:

- the owner/operator will explain the nature of the incident
- why it happened
- what is being done to bring the operation back into compliance with the plan, and
- how long it will be before the operation is back in compliance
- any corrective action required

12.2.3 Non-Compliance Reporting:

- a. The facility operators will be required to report any deviations from the WMP to MNR within 30 days, together with a rationale for the deviations, and proposals for remediation of any problems, if necessary.
- b. MNR will have 90 days to respond and will take into account the nature, severity and the reasons for the non-compliance. Facility operators will be provided with a fair and reasonable opportunity to explain what happened and their actions before any enforcement action is taken. It is recognized that weather conditions are a source of on-going uncertainty to the management of waterpower facilities and other control structures. For example, where flood, drought or energy emergency conditions have been determined to exist (as per the approved MNR compliance guidelines), and notice has been given to facility operators confirming such conditions, operating regimes different from those in the approved WMP can be negotiated between MNR and the facility operators to address the emergency situation. These amended operating regimes will provide the facility operators with greater latitude to operate their facilities outside of commitments agreed upon in the WMP under such conditions.
- c. When an MNR structure in a WMP is operated such that water levels and flows are outside the approved operating range, MNR will complete and file an incident report following the same timelines as set out for owners.
- d. MNR will maintain a copy of all reports and written warnings on file for at least 5 years from the date of the report. After this period reports will be removed from the file in accordance with the file retention schedule.
- e. All reports produced are subject to the Freedom of Information and Protection of Privacy Act and are considered public documents subject to mandatory exemptions in that Act and may be made available to the public upon request.

12.2.4 Out of Compliance Enforcement

- a) Companies that do not operate their waterpower facilities in accordance with their approved WMP will be held accountable.
- b) MNR will determine the response to non-compliance in accordance with legislation and policy.
- c) In instances of non-compliance, MNR will conduct an investigation. Investigations will take into account a number of factors including weather, the intent of the offender, failure of equipment and unforeseen events.
- d) In instances of unscheduled facility imperatives (e.g. emergency maintenance etc.), MNR will consider requests from the owner for temporary relief from the plan expeditiously with consideration to the relative priorities of both MNR and the owner.
- e) WMPs will recognize that in a system with a number of dams or facilities, situations caused by only one operator may affect the others. Facility and dam owners downstream from another facility may be unable to avoid a situation where they can no longer meet their flow and/or water level requirements as a direct result of the actions of a facility or dam operator somewhere else on the system. If this occurs, this will not abrogate the downstream owner's ongoing responsibility to take the appropriate action to avoid operating outside of their approved operating ranges.
- f) Procedures will be developed to help determine the most appropriate enforcement action (including warnings, orders and laying charges under s. 28 of the LRIA) based upon the history of the offender and the impacts of the offence.
- g) For compliance and enforcements, upon request, the power producers will provide hourly information for the generating stations.

12.2.5 Annual Reporting:

The facility operator will prepare an Annual Compliance Report by January 30th of each year outlining:

- Actual operations as compared to Plan.
- Detailed description of out of compliance occurrences.
- Rationale for out of compliance occurrences.
- Proposals for remediation problems, if necessary.

12.2.6 Public Involvement and Awareness

Public awareness, public involvement and transparency for compliance monitoring will be achieved primarily through the use of a Standing Advisory Committee (SAC) for the Matabitchuan River WMP. The Matabitchuan SAC will advise, monitor and assist in the implementation of the Matabitchuan River Water Management Plan. The SAC will be composed of a number of citizens representing a diversity of interests and expertise, some of whom might be members of the existing Planning Team and PAC.

The Standing Advisory Committee will monitor the implementation of the plan and produce an annual status report in January of each year to be distributed to OPGI, MNR, First Nations and the public. The SAC will review all data collected during the monitoring of the plan and provide a communication link with the public to foster and maintain credible relationships. (See Terms of Reference in Chapter 13)

OPGI and the MNR have committed to this course of action.

12.3 Compliance Curves

Following are compliance curves for each facility. Included on the curves are labels for key elevations, labels explaining the constraints, historical average elevation curve, guide curve for drawdown, and compliance boundaries. The out-of-compliance zones are shaded in red. The guide curve represents a tool for managing the facility based on historical levels and flows, but is not specifically used for compliance.