

---

---

**Appendix E**  
***Drainage Act Information***

---

---

## **ATTACHED RELEVANT PROVISIONS OF THE DRAINAGE ACT**

### **Definitions**

#### **1. In this Act,**

*"benefit" means the advantages to any lands, roads, buildings or other structures from the construction, improvement, repair or maintenance of a drainage works such as will result in a higher market value or increased crop production or improved appearance or better control of surface or subsurface water, or any other advantages relating to the betterment of lands, roads, buildings or other structures; ("avantage")*

*"benefit cost statement" means a statement relating the anticipated benefits expressed in dollars to the total estimated cost of the drainage works; ("état coût-avantages")*

*"built-up area" means an area of land where,*

*(a) not less than 50 per cent of the frontage upon one side of a road for a distance of not less than 200 metres is occupied by dwellings, buildings used for business purposes, schools or churches, or*

*(b) not less than 50 per cent of the frontage upon both sides of a road for a distance of not less than 100 metres is occupied by dwellings, buildings used for business purposes, schools or churches, or*

*(c) not more than 200 metres of a road separates any land described in clause (a) or (b) from any other land described in clause (a) or (b), or*

*(d) a plan of subdivision has been registered; ("agglomération")*

*"commissioner" means a commissioner appointed by a municipality by by-law; ("commissaire")*

*"conservation authority" means a conservation authority established under the Conservation Authorities Act; ("office de protection de la nature")*

*"court of revision" means a court of revision constituted under this Act; ("tribunal de révision")*

*"Director" means the Director appointed for the purposes of this Act; ("directeur")*

*"drainage superintendent" means a drainage superintendent appointed by a municipality by by-law; ("directeur des installations de drainage")*

*"drainage works" includes a drain constructed by any means, including the improving of a natural watercourse, and includes works necessary to regulate the water table or water level within or on any lands or to regulate the level of the waters of a drain, reservoir, lake or pond, and includes a dam, embankment, wall, protective works or any combination thereof; ("installations de drainage")*

*"engineer" means an engineer registered under the Professional Engineers Act or a surveyor registered under the Surveyors Act, or a partnership, association of persons or corporation that holds a certificate of authorization under the Professional Engineers Act or the Surveyors Act, as the case may be; ("ingénieur")*

*"improvement" means any modification of or addition to a drainage works intended to increase the effectiveness of the system; ("amélioration")*

*"initiating municipality" means the local municipality undertaking the construction, improvement, repair or maintenance of a drainage works to which this Act applies; ("municipalité initiatrice")*

"injuring liability" means the part of the cost of the construction, improvement, maintenance or repair of a drainage works required to relieve the owners of any land or road from liability for injury caused by water artificially made to flow from such land or road upon any other land or road; ("responsabilité des dommages")

"lateral drain" means a drain that is designed for the drainage of one property and that begins and ends on the same property; ("drain latéral")

"maintenance" means the preservation of a drainage works; ("entretien")

"Minister" means the Minister of Agriculture and Food; ("ministre")

"outlet liability" means the part of the cost of the construction, improvement or maintenance of a drainage works that is required to provide such outlet or improved outlet; ("responsabilité de la sortie")

"owner" includes a guardian of property and a guardian, executor, administrator or trustee in whom land is vested; ("propriétaire")

"preliminary report" means an engineer's report containing the information specified in section 10; ("rapport préliminaire")

"property" means a parcel of land that by the Assessment Act is required to be separately assessed; ("propriété")

"public utility" means a person having jurisdiction over any water works, gas works, electric heat, light and power works, telegraph and telephone lines, railways however operated, street railways and works for the transmission of gas, oil, water or electrical power or energy, or any similar works supplying the general public with necessaries or conveniences; ("services publics")

"referee" means the referee appointed under this Act; ("arbitre")

"repair" means the restoration of a drainage works to its original condition; ("réparation")

"report" means an engineer's report containing the information specified in section 8; ("rapport")

"road authority" means a body having jurisdiction and control of a common and public highway or road, or any part thereof, including a street, bridge and any other structure incidental thereto and any part thereof; ("office de la voirie")

"special benefit" means any additional work or feature included in the construction, repair or improvement of a drainage works that has no effect on the functioning of the drainage works; ("avantage particulier")

"sufficient outlet" means a point at which water can be discharged safely so that it will do no damage to lands or roads; ("sortie appropriée")

"Tribunal" means the Agriculture, Food and Rural Affairs Appeal Tribunal continued under the Ministry of Agriculture, Food and Rural Affairs Act. ("Tribunal") R.S.O. 1990, c. D.17, s. 1; 1992, c. 32, s. 8; 1999, c. 12, Sched. A, s. 9 (1); 2002, c. 17, Sched. F, Table.

## SECTION 4

### Petition

4. (1) A petition for the drainage by means of a drainage works of an area requiring drainage as described in the petition may be filed with the clerk of the local municipality in which the area is situate by,

(a) the majority in number of the owners, as shown by the last revised assessment roll of lands in the area, including the owners of any roads in the area;

(b) the owner or owners, as shown by the last revised assessment roll, of lands in the area representing at least 60 per cent of the hectarage in the area;

(c) where a drainage works is required for a road or part thereof, the engineer, road superintendent or person having jurisdiction over such road or part, despite subsection 61 (5);

(d) where a drainage works is required for the drainage of lands used for agricultural purposes, the Director. R.S.O. 1990, c. D.17, s. 4 (1).

### Form of petition

(2) A petition under subsection (1) shall be in the form prescribed by the regulations and, where it is filed by an owner or owners under clause (1) (a) or (b), shall be signed by such owner or owners. R.S.O. 1990, c. D.17, s. 4 (2).

### Petition where area lies on each side of boundary line

(3) Where it is desired to construct a drainage works for the drainage of an area composed of lands or roads lying on each side of a boundary line between two or more local municipalities, the council of any of them may proceed upon a petition as required by this Act in all respects, including the sending of notices, as if such area were entirely within the limits of the municipality. R.S.O. 1990, c. D.17, s. 4 (3).

### Person deemed owner

(4) Where a person who is the owner of land, but does not appear by the last revised assessment roll of the municipality to be the owner, is a petitioner, the person shall be deemed an owner if the person's ownership is proved to the satisfaction of the clerk, and, if the person who appears by the assessment roll to be the owner is a petitioner, the person's name shall be disregarded in determining the sufficiency of the petition. R.S.O. 1990, c. D.17, s. 4 (4).

### Persons jointly assessed

(5) Where two or more persons are jointly assessed for a property, in determining the sufficiency of a petition, they shall be deemed to be one owner. R.S.O. 1990, c. D.17, s. 4 (5).

## SECTION 8

### Appointment of engineer

8. (1) Where the council of the initiating municipality has decided to proceed with the drainage works described in a petition, the council shall by by-law or resolution appoint an engineer to make an examination of the area requiring drainage as described in the petition and to prepare a report which shall include,

(a) plans, profiles and specifications of the drainage works, including a description of the area requiring drainage;

(b) an estimate of the total cost thereof;

(c) an assessment of the amount or proportion of the cost of the works to be assessed against every parcel of land and road for benefit, outlet liability and injuring liability;

(d) allowances, if any, to be paid to the owners of land affected by the drainage works; and

(e) such other matters as are provided for under this Act. R.S.O. 1990, c. D.17, s. 8 (1).

**Where engineer is a corporation, etc.**

(2) Where the engineer appointed under this Act is a corporation, association or partnership, the appointee shall, within ten days of the date of appointment, notify the council of the name of the individual engineer who will have charge of the project and who will remain in charge until the report is filed and if for any reason the designated engineer ceases to be employed by the appointee, the appointee shall within ten days of such time notify the council of the name of his or her replacement. R.S.O. 1990, c. D.17, s. 8 (2).

**Appeal or referral to Tribunal**

(3) Where the council fails to appoint an engineer within sixty days after giving notice of its decision to proceed, any petitioner may appeal to the Tribunal or, where the petition was signed by the Director or where lands used for agricultural purposes are included in the area to be drained, the Minister may refer the matter to the Tribunal, and the Tribunal may direct the council to take such action as the council is authorized to take under this Act and as the Tribunal considers proper. R.S.O. 1990, c. D.17, s. 8 (3).

**One report on two or more petitions**

(4) The council of the initiating municipality may instruct the engineer to make one report with respect to two or more petitions requiring drainage in two or more adjoining areas that require drainage. R.S.O. 1990, c. D.17, s. 8 (4).

**SECTION 10**

**Preliminary report**

10. (1) Where the council of the initiating municipality deems it expedient, it may, or if it has received notice under section 6 that an environmental appraisal is required, it shall instruct the engineer to prepare a preliminary report containing a sketched plan of the drainage works and an estimate of the cost thereof in so far as it is practicable to do so, and which shall include the environmental appraisal, if any, and the benefit cost statement, if any, and the engineer shall forthwith prepare and file such a preliminary report with the council. R.S.O. 1990, c. D.17, s. 10 (1).

**Consideration of report**

(2) Upon the filing of the preliminary report, the council of the initiating municipality shall cause the clerk to send a copy of the preliminary report and a notice of the date of the council meeting at which the preliminary report will be considered, to,

(a) every owner of land within the area requiring drainage as determined by the engineer or described in the petition, as the case may be;

(b) any public utility or road authority that may be affected by the drainage works;

(c) any local municipality and conservation authority entitled to notice under section 5 or, if no authority is entitled to notice, to the Minister of Natural Resources; and

(d) the Minister. R.S.O. 1990, c. D.17, s. 10 (2).

**Withdrawal from and additions to petition**

(3) At the meeting referred to in subsection (2), the council shall consider the preliminary report and shall give to any person who signed the petition an opportunity to withdraw from it by putting a withdrawal in writing, signing it and filing it with the clerk, and to any person present who owns land in the area requiring drainage and has not signed the petition an opportunity to do so. R.S.O. 1990, c. D.17, s. 10 (3).

**Cost of petition and preliminary report**

(4) If at the end of the meeting the petition does not contain a sufficient number of names to comply with section 4, the original petitioners are chargeable in equal shares with and liable to the municipality for the expenses incurred by the municipality in connection with the petition and preliminary report, excluding the amount of any grants and the costs of any environmental appraisal or benefit cost statement, and the sum with which each of such petitioners is chargeable shall be entered upon the collector's roll for the municipality against the lands of the person liable and shall be collected in the same manner as real property taxes. R.S.O. 1990, c. D.17, s. 10 (4).

#### **Instruction to engineer**

(5) If at the end of the meeting, the petition contains a sufficient number of names to comply with section 4, the council may instruct the engineer to proceed with the preparation of a report. R.S.O. 1990, c. D.17, s. 10 (5).

#### **Appeal to Tribunal**

(6) Where the council of the initiating municipality fails to instruct the engineer to proceed with the preparation of a report, any petitioner may appeal to the Tribunal or, where lands used for agricultural purposes are included in the area to be drained, the Minister may refer the matter to the Tribunal and the Tribunal may direct the council to take such action as the council is authorized to take under this Act and as the Tribunal considers proper. R.S.O. 1990, c. D.17, s. 10 (6).

#### **Idem**

(7) Where any party mentioned in clause (2) (a), (b) or (c) is dissatisfied with the environmental appraisal, an appeal lies to the Tribunal. R.S.O. 1990, c. D.17, s. 10 (7).

#### **Referral to Tribunal**

(8) Where,

(a) lands used for agricultural purposes are included in the area to be drained, the Minister; or

(b) a conservation authority or regional office of the Ministry of Natural Resources reports to the Minister of Natural Resources that the environmental appraisal is unsatisfactory, the Minister of Natural Resources,

may refer the environmental appraisal to the Tribunal. R.S.O. 1990, c. D.17, s. 10 (8).

#### **Powers of Tribunal**

(9) An appeal under subsection (7) or a reference under subsection (8) shall be made within forty days after the meeting referred to in subsection (2), and the Tribunal may confirm the environmental appraisal or direct that it be reconsidered in such respects as the Tribunal considers proper. R.S.O. 1990, c. D.17, s. 10 (9).

### **SECTION 78**

#### **Improving, upon examination and report of engineer**

**78.** (1) Where, for the better use, maintenance or repair of any drainage works constructed under a by-law passed under this Act or any predecessor of this Act, or of lands or roads, it is considered expedient to change the course of the drainage works, or to make a new outlet for the whole or any part of the drainage works, or to construct a tile drain under the bed of the whole or any part of the drainage works as ancillary thereto, or to construct, reconstruct or extend embankments, walls, dykes, dams, reservoirs, bridges, pumping stations and other protective works as ancillary to the drainage works, or to otherwise improve, extend to an outlet or alter the drainage works or to cover the whole or any part of it, or to consolidate two or more drainage works, the council of any municipality whose duty it is to maintain and repair the drainage works or any part thereof may, without the petition required in section 4 but on the report of an engineer appointed by it, undertake and complete the drainage works as set forth in such report. R.S.O. 1990, c. D.17, s. 78 (1).

#### **Notice to conservation authority**

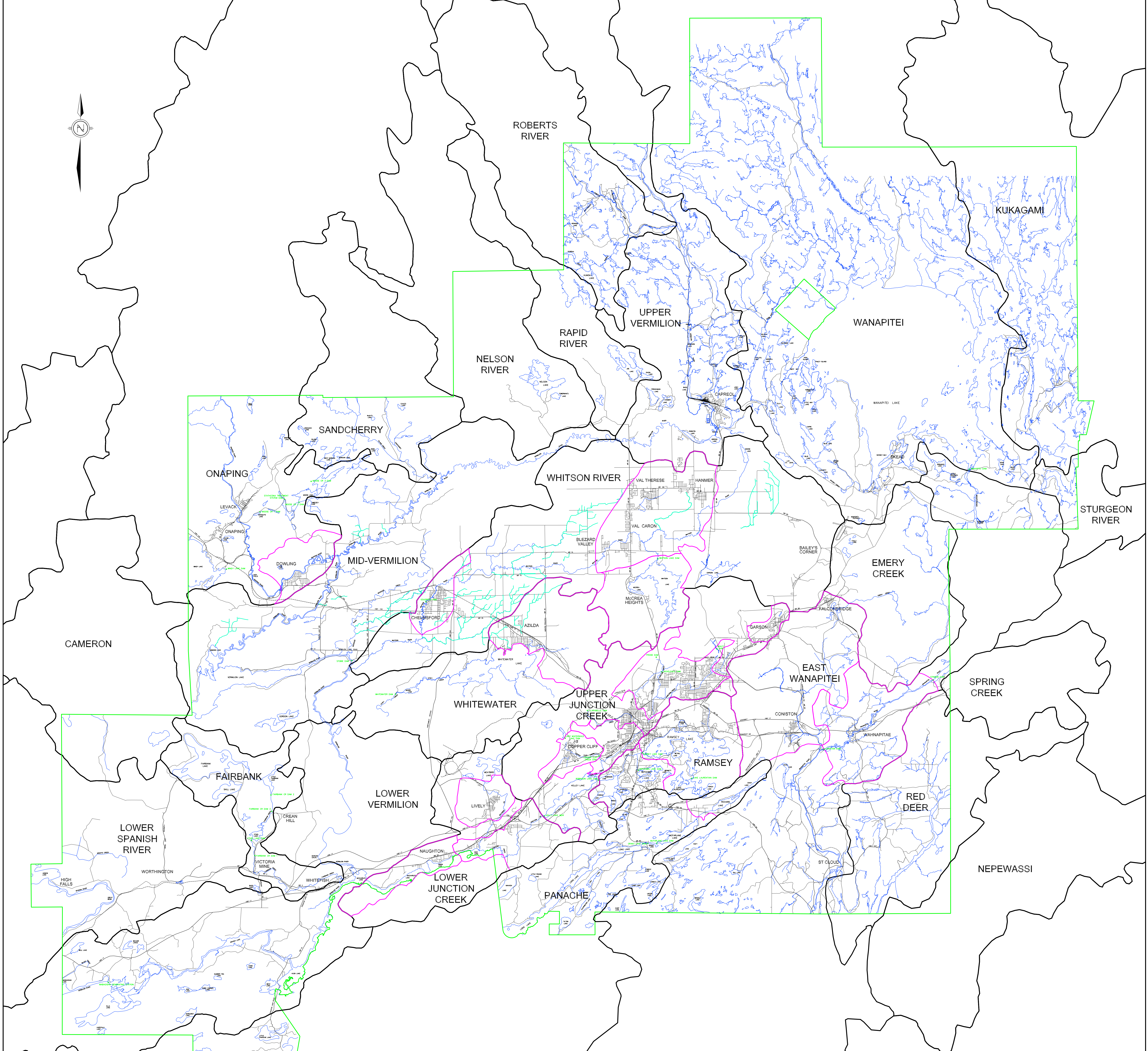
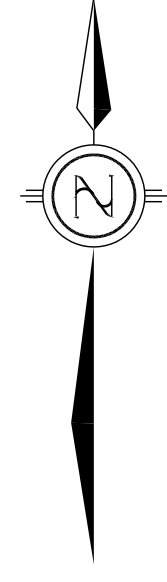
(2) An engineer shall not be appointed under subsection (1) until thirty days after a notice advising of the proposed drainage works has been sent by prepaid mail to the secretary-treasurer of each conservation authority that has jurisdiction over any of the lands that would be affected. R.S.O. 1990, c. D.17, s. 78 (2).




#### **Powers and duties of engineer**

(3) The engineer has all the powers and shall perform all the duties of an engineer appointed with respect to the construction of a drainage works under this Act. R.S.O. 1990, c. D.17, s. 78 (3).

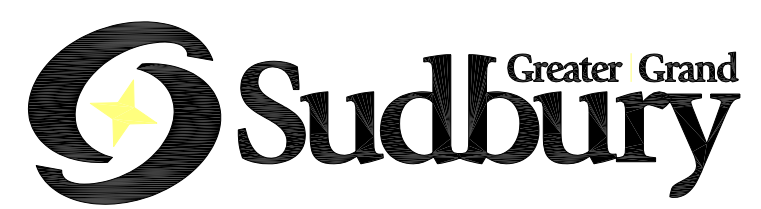
#### **Proceedings**

(4) All proceedings, including appeals, under this section shall be the same as on a report for the construction of a drainage works. R.S.O. 1990, c. D.17, s. 78 (4).



**LEGEND:**  
 MUNICIPAL DRAINS  
 DAM  
 PRIORITY SUBWATERSHED

**HISTORICAL STORMS:**  
 1) TIMMINS STORM - OCCURRED IN SEPTEMBER, 1961.  
 - REGULATORY STORM FOR NORTHERN AND SOUTH-CENTRAL ONTARIO.  
 2) HURRICANE HAZEL - OCCURRED IN OCTOBER, 1954.  
 - REGULATORY STORM FOR SOUTHERN ONTARIO.



**SUDBURY  
 STORMWATER  
 BACKGROUND  
 STUDY**  
 City of Greater Sudbury

**DRAWING 1**  
 CITY OF GREATER SUDBURY  
 WATERSHED SUMMARY

SCALE: 1:100,000  
 DATE: NOVEMBER 2004 PN 71981