

# Manitoba's Water Rights Act An Overview on Drainage



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# The Water Rights Act - 1988



*The Water Rights Act* states that no person shall control water or construct, establish or maintain any water control works unless he or she has a valid and subsisting licence to do so

June, 2018 – The Sustainable Watersheds Act amended The Water Rights Act to include a new streamlined approach for lower risk, lower impact projects, enhanced protection for wetlands, and modernize inspection and enforcement tools including enhanced offence and penalty provisions.

October, 2019 – Amendment to The Water Rights Act received proclamation and an amendment to the Water Rights Regulation came into force.

The following projects do not require authorization under The Water Rights Act:

- Culvert replacements with no change in culvert size or invert elevation
- Drainage and water retention projects that require a licence under The Environment Act
- Water control works in urban areas where the proposed works do not:
  - drain Class 3, 4, or 5 wetlands or
  - outlet directly to outlying rural areas

# Registration vs. Licensing

## Registration Process

A project can be registered if it meets the criteria and associated requirements for the seven classes of works:

- A. Minor surface drain construction
  - B. Agricultural sub-surface (tile) drain construction
  - C. Water control works for new crossings
  - D. Minor culvert changes
  - E. Wetland enhancement and restoration
  - F. Small dam construction
  - G. Small dry dam construction
- ✓ Focus on lower risk projects
  - ✓ Approval in 14 calendar days or less

## Licensing Process

If a project does not meet the criteria of a registrable project or requirements of one of the seven classes.

- ✓ Focus is on higher risk projects
- ✓ Drainage of Class 3 wetlands
- ✓ Shorter wait times as lower risk projects are fast-tracked
- ✓ Intent is to establish a service standard in the future
- ✓ The department will strive to provide a licence within six weeks.

# Tile Drainage

- Context
- Benefits
- Impacts
- Design
- Regulatory process



# Tile Drainage Resources

- Red River Basin Commission Webinars
  - <https://www.redriverbasincommission.org/rrbc-projects>
- Series includes the following topics:
  - What does Tile Do for My Land and Crops?
  - How Does Tile Impact Downstream Environments?
  - Tile Drainage, the Watershed, and the Environment
  - Policy and Local Government Considerations

## Registration Process

*Written approval is required from:*

- the landowner immediately downstream of the project, OR if written approval cannot be obtained, a written exemption from an officer confirming the applicant is not required to obtain other landowner approval.

## Licence Process

*Written Approval is required from:*

- signoff from those landowners that are deemed to be significantly affected. When the application is submitted, the officer will assess the site and the list of landowners that have signed off on the project. The officer may deem it necessary for additional sign off if there are other significantly affected landowners.

# Municipal Approvals

- Municipalities have the opportunity to review projects and provide their assessment in instances where municipal lands are immediately downstream of registrable project or if they are deemed to be impacted (licensed projects).
- Municipalities who wish to have more control may pass a drainage bylaw.



# Registrations (not contiguous)

- Municipalities may use the Municipal Registrable Works form to submit all of these works at the same time, for the fee of \$100.

# Multiple Works or Licensed Projects (Contiguous)

- Water Licensing Portal
- More than 10 locations

# Multiple Licensed Works (not contiguous)

- Application fee of \$500
- Same sub-watershed
- Contiguous surveys

# What are the survey requirements?

- Municipal ROW drain maintenance
  - Minimum one shot profile with geodetic benchmark or three shot profile with assumed benchmark;
  - Existing drain bottom and proposed gradient must be clearly illustrated;

# Water Licensing Portal Overview

- Information for the portal is available at [www.gov.mb.ca/drainage](http://www.gov.mb.ca/drainage)
- Video demonstrations on how to create an account and apply for licences are available on the website.

## How to apply for a Water Control Works Licence

This video will walk you through how to apply for a new Water Control Works Licence using the Water Licensing Portal.



Please refer to the [list of reminders](#) as part of the application process to ensure you submit all required documentation.

A maximum of one section of land (under the same ownership) OR a contiguous project (on lands under the same ownership) can be submitted on a single application. For example, if you are applying for water control works on three different (non-contiguous) sections, three separate applications with three application fees are required.

# No Net Loss of Wetland Benefits Approach



- New provision sets a requirement to restore wetland benefits where a licensee is authorized to drain a prescribed class of wetlands (The Sustainable Watersheds Act – Section 5)
- Requirements to compensate for prescribed wetland drainage in the regulation
- Amount of offset required is likely to vary depending on the type on the type of restoration or enhancement work being done
- The approach is based on mitigation hierarchy of avoidance, minimization, compensation



# Legacy Drainage Licensing Project

- Purpose
  - Obtain authorization for maintenance of unlicensed ‘legacy’ water control works



# Benefits

- Many drainage projects on a single licence
- Work can proceed when resources allow
- Defrays application fee
- Drainage maintenance on a watershed basis



# Process Steps

1. Area of interest identified.
2. Existing water control works including planned improvements.
3. Contiguous surveys of area.
4. Paper-based application with \$500 fee.
5. Application will be uploaded to Water Licensing Portal account.
6. Assessment and site inspection.

## Process Steps (continued)

7. Additional questions or approvals.
8. If no concerns a licence is issued.
9. Licence will be saved within the water licensing portal account for future reference.
10. Proceed with works as resources permit.

# Reporting Unauthorized Drainage

- Municipalities are encouraged to notify the department if they are observing water control works on the landscape that may not be authorized.
- Drainage enforcement is primarily complaint-based so if a complaint isn't made to an officer they might not be aware unauthorized work is occurring.
- Complaints can be submitted through the water licensing portal.
- If you are unable to submit a complaint using the online [Water Licensing Portal](#), please contact your local Water Resource Officer or email [drainage@gov.mb.ca](mailto:drainage@gov.mb.ca) for alternate formats.
- Whichever format you choose a complaint form **must** be submitted to the department so that an officer can investigate the issue.

# Water Licensing Portal Public Map Viewer

- <https://web43.gov.mb.ca/Html5Viewer/Index.html?viewer=wallasExt.wallas&locale=en-US>



# Complaint Process

## Request for Assistance in Resolving a Complaint

Complaints to be sent to:  
Water Stewardship and Biodiversity Division  
Drainage and Water Rights Licensing  
200 Saulteaux Crescent Winnipeg MB R3J 3W3

Or E-mailed to:  
[drainage@gov.mb.ca](mailto:drainage@gov.mb.ca)



Complainant Name(s) \_\_\_\_\_  
Mailing address \_\_\_\_\_ City \_\_\_\_\_ Postal Code \_\_\_\_\_  
Telephone No. \_\_\_\_\_ Cell Phone No. \_\_\_\_\_ Fax No. \_\_\_\_\_  
Location of Residence \_\_\_\_\_ Email \_\_\_\_\_

### LOCATION OF IMPACTED

Location of impacted lands \_\_\_\_\_  
(SECTION/TOWNSHIP/RANGE)  
Municipality affected lands are located in \_\_\_\_\_

### DESCRIPTION OF IMPACTS

Date of initial finding of the impact? \_\_\_\_\_  
Nature of the impact:  Flooding  Unauthorized project  Other; please specify: \_\_\_\_\_  
What is the size/acreage of land parcel affected? \_\_\_\_\_  
How long have you owned/resided/operated the piece of affected land? \_\_\_\_\_  
How long have the impacts been occurring? \_\_\_\_\_  
When were the works constructed / installed? \_\_\_\_\_  
Additional description of impacted works:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### PERSON OR AUTHORITY RESPONSIBLE FOR IMPACT

Indicate owner or authority responsible for the works:  
Name(s) \_\_\_\_\_  
Mailing address \_\_\_\_\_ City \_\_\_\_\_ Postal Code \_\_\_\_\_  
Telephone No. \_\_\_\_\_ Cell Phone No. \_\_\_\_\_ Fax No. \_\_\_\_\_  
Location of Residence \_\_\_\_\_ Email \_\_\_\_\_

### IMPACT RESOLUTION

The complainant should contact the person or authority considered responsible for the cause of the complaint and make a reasonable effort to resolve the complaint prior to filing of this form. Please describe attempts made below:  
Have you contacted the person or authority responsible? \_\_\_\_\_  
When, Where and How was the contact made? \_\_\_\_\_

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The complainant should contact the person or authority considered responsible for the cause of the complaint and make a reasonable effort to resolve the complaint prior to filing of this form. Please describe attempts made below:

Have you contacted the person or authority responsible? \_\_\_\_\_  
When, Where and How was the contact made? \_\_\_\_\_

Summary of results of contact \_\_\_\_\_

What do you see is the best solution to your issue? \_\_\_\_\_

### ADDITIONAL INFORMATION / ATTACHMENTS

Please provide any information, photos, evidence or comments that you feel would assist in investigating this complaint.

The space below is provided for a sketch plan of your impacted lands. Also indicate the location of works that are causing the impacts to your lands. Please show as much detail as possible, including any possible landmarks, flow direction, drains, culverts, roads, and a directional north arrow.

# Compliance

- Voluntary Compliance



# Enforcement

- Two enforcement methods:
  - Prosecution
  - Civil enforcement



# Enforcement - Prosecution

- Warning
- Ticket
- Long information
- Ministerial order



# Ministerial Orders

- Provides the Minister with authority to make an order.
- The Minister can make an order requiring the person to:
  - remove the water control works;
  - cease controlling water; or
  - repair or reconstruct or alter the works
- Failure to comply with an order  
Any cost incurred to carry out any of these actions can be recovered from the person to whom the order is against.
- Appeals of an order

## Stats (2022-2023)

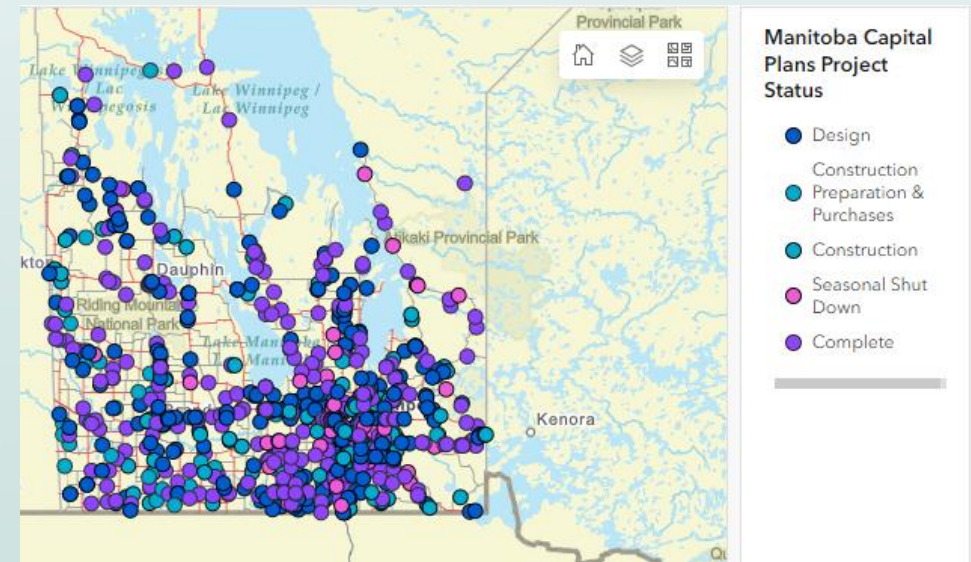
- 722 new applications received
- 362 water control works licences issued
- 227 registration certificates issued
- 89 formal drainage complaints received
- More than 27,000 authorizations in existence
- Financial compensation (\$437,160) to compensate for the alteration of seasonal wetlands (36.43 acres)

# Enforcement (2022-2023)

- Eight offence notices and charges issued under The Water Rights Act
- 15 warnings issued for unauthorized water control works
- Nine order issued to remediate unauthorized water control works

# Manitoba Transportation and Infrastructure

- Multi-year Investment Strategy
  - <https://www.gov.mb.ca/mti/myhis/index.html>
- Manitoba Infrastructure Projects
  - <https://www.gov.mb.ca/mti/mipmap/map.html>



# Questions?

## Drainage and Water Rights Licensing Branch

- Phone: 204-945-3983
- Email: [drainage@gov.mb.ca](mailto:drainage@gov.mb.ca)

# Resources

- Red River Basin Commission Webinars
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- Water Licensing Portal
  - [www.manitoba.ca/waterlicensingportal](http://www.manitoba.ca/waterlicensingportal)
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