



PROGRAM <b>Water Control Works and Drainage Licensing</b>	DATE YR: 11 MO: 02 DY: 03	INDEX NUMBER AB - 00 - 00
SUBJECT <b>Expedited authorization of minor water control works</b>	APPROVED	
CATEGORY <b>Policy &amp; Procedure</b>	<b>Identified Signing Authority Needed:</b> <b>Steve Topping, P. Eng.</b> Executive Director, Regulatory Services and Operations	

The water control works and drainage licensing process will be managed as efficiently as possible with due time and consideration given to the assessment of impacts. License applications expected to have minimal environmental impact will be prioritized and processed as quickly as possible.

**Intent:**

To establish criteria for the classification of minor water control works and to provide an expedited authorization process for these works that is consistent with *The Water Rights Act* W80.

**Definitions**

For the purpose of this Policy and Procedure, the following definitions apply:

**Water Control Works**, as defined by *The Water Rights Act*, "means any dyke, dam, surface or subsurface drain, drainage, improved natural waterway, canal, tunnel, bridge, culvert borehole or contrivance for carrying or conducting water that (a) temporarily or permanently alters or may alter the flow or level of water, including but not limited to water in a water body, by any means, including drainage, or (b) changes or may change the location or direction of flow of water, including but not limited to water in a water body, by any means, including drainage"

**Wetland** is defined as land that is saturated with water long enough to promote wetland or aquatic processes as indicated by poorly drained soils, hydrophytic vegetation and various kind of biological activity which are adapted to a wet environment. Wetlands include bogs, fens, marshes, swamps and shallow waters.

The Water Control Works and Drainage Licensing Section will rely primarily on the Stewart and Kantrud system to classify marshes:

- Class I – Ephemeral – hold water a few days in the spring. Typically cultivated or grass/forb vegetation.
- Class II – Temporary – hold water a few weeks in the spring, and a few days after each heavy rain. Typically grass/forb/sedge vegetation.
- Class III – Seasonal – hold water 1-3 months, spring to early summer. Typically sedge/whiteweed/burr-reed vegetation.
- Class IV – Semi-permanent – hold water 5 months or more. Typically cattail/bulrush/sedge vegetation.
- Class V – Permanent – hold water throughout most years except during prolonged drought. Typically cattail/bulrush/sedge vegetation.

**Riparian area**, as defined by *The Water Protection Act*, is an area of land on the banks or in the vicinity of a water body which, due to the presence of water supports, or in the absence of human intervention would naturally support, an ecosystem that is distinctly different from that of adjacent upland areas.

**Natural ground level** is defined as the ground level of the land before any filling, excavation or building work has been undertaken and is commonly referred to as "prairie" or "prairie level".

**Minor water control works** are defined according to the following criteria:

Respecting drainage, minor water control works:

- are constructed solely on lands owned or controlled by the applicant without negative impact to other lands
- meet industry accepted engineering and construction standards
- involve excavation of organic soils only and do not lower water levels more than 30 cm (1 foot) below natural ground level

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- are proven acceptable to municipal or provincial government if water control works affect the location or flow of water on municipal or provincial property
- are proven acceptable to the landowner of lands on which they are constructed if applicant does not own the land
- do not occur in naturally vegetated riparian areas
- do not occur on Class 6 and 7 soils as defined by Canada Land Inventory (CLI) Soil Capability for Agriculture (1965)
- do not alter the natural state of seasonal, semi-permanent or permanent marshes (Classes III, IV, V – Stewart and Kantrud marsh classification system)

**Respecting dams, minor water control works:**

- are constructed solely on lands owned or controlled by the applicant without negative impact to other lands
- meet industry accepted engineering and construction standards
- are located within artificially constructed drainage channels
- are less than 1.5 meters in height and do not raise the spill elevation of a wetland above natural ground level

**Respecting municipal water control works, the following may be authorized as minor water control works:**

**Installation of new approaches (property access crossings) that:**

- are constructed solely on lands owned or controlled by the applicant without negative impact to other lands
- do not alter the natural state of seasonal, semi-permanent or permanent wetlands (Classes III, IV, V – Stewart and Kantrud marsh classification system)
- do not alter water flow rates, volumes or directions of flow as compared to pre-construction conditions
- consist of culvert crossings sized equal to, or larger than, the largest culvert through the next immediate crossing upstream or downstream

**Installation of through-grade culverts intended to equalize water levels on either side of municipal roads that:**

- are constructed solely on lands owned or controlled by the applicant without negative impact to other lands
- do not alter the natural state of seasonal, semi-permanent or permanent wetlands (Classes III, IV, V – Stewart and Kantrud marsh classification system)

**Removal of soil from municipal drainage infrastructure to restore drain function that:**

- is constructed solely on lands owned or controlled by the applicant without negative impact to other lands
- does not alter the natural state of seasonal, semi-permanent or permanent wetlands (Classes III, IV, V – Stewart and Kantrud marsh classification system)
- does not occur in naturally vegetated riparian areas
- meets industry-accepted engineering and construction standards including erosion and sediment control
- does not result in water flow across watershed boundaries or result in increased inter-jurisdictional flows (including, but not limited to, adjacent towns, villages, cities, municipalities, provinces, or countries)
- does not include changes to existing culvert capacity or elevation within the drain in which the works are being undertaken
- includes an application which includes a topographic survey detailing existing drain profile, culvert location, size, elevation and the proposed drain bottom level indicated on the survey

**Infrastructure replacement(s) that entail replacement of culverts at the same location and elevation as the previous culvert that:**

- are constructed solely on lands owned or controlled by the applicant without negative impact to other lands
- do not alter the natural state of seasonal, semi-permanent or permanent wetlands (Classes III, IV, V – Stewart and Kantrud marsh classification system)
- meet industry accepted engineering and construction standards
- do not change the hydraulic capacity of the structure by more than 15%
- are less than 48" (1200 mm) in diameter in the case of culvert infrastructure

**Policy/Procedure:**

1. An expedited authorization for minor water control works will be considered in response to a valid and

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complete application as outlined in *The Water Rights Act* Regulation 126/87.

2. Applications for expedited authorizations for drainage works may include a maximum of one section of land per application. Applications for expedited authorizations for dams that involve conservation agreements with multiple landowners may be included on one application if considered part of the same project. Applications for expedited authorization of infrastructure installations by municipalities or conservation districts may include multiple locations listed in an annual work plan.
3. No authorization is required for maintenance of licensed water control works, as long as the works comply with the conditions and specifications of the license. Authorization is required for any activity on a licensed water control work that would bring the works out of compliance with the license conditions and specifications.
4. Water control works that are not considered minor water control works are licensed under *The Water Rights Act*, thereby authorizing future maintenance within license conditions and specifications.
5. Following receipt of an application for expedited authorization, Water Stewardship staff will review the application to ensure that all necessary information is supplied and is clearly understood. Land ownership will be verified by Water Stewardship staff. The applicant will be contacted by Water Stewardship staff if any details require clarification and updated information will be noted on the file.
6. If proposed works are not considered minor water control works, the applicant will be informed, by letter, that their application will be addressed through the standard licensing process.
7. Water Stewardship staff will inspect the site of proposed minor water control works with the following exceptions:
  - Municipal infrastructure replacement(s) and installation of new approaches that meet the definition of minor water control works do not have to be inspected prior to authorization if the municipality has a history of compliance with *The Water Rights Act* and provides accurate information about the location (UTM coordinates), crossing type, size and elevation as compared to road top at that location. For installation of new approaches, municipalities must provide a rationale for the sizing of the culvert through the crossing considering that flows should not unduly impact lands near the approach location. Municipalities that submit lists of works for approval should identify the proposed works in order of priority for construction.
  - Minor water control works applied for by private landowners or Conservation Districts with a history of compliance with *The Water Rights Act* do not have to be inspected prior to issuance of authorization.
8. History of compliance with *The Water Rights Act* means that there is no record of unauthorized works undertaken by the applicant, and that licenses previously issued to the applicant are not known to be out of compliance with the conditions of the licenses.
9. Water Stewardship staff will conduct an audit of projects licensed without inspection on an ongoing basis.
10. Staff will attempt to contact the applicant prior to site inspection to determine if bio-security protocols are in place for the subject lands. If there is a bio-security protocol in affect, staff will make all reasonable efforts to follow that protocol. If no bio-security protocol is in place, or the applicant cannot be contacted, bio-security measures adopted by the Water Control Works and Drainage Licensing section will apply.
11. All pertinent information including staff notes, site pictures, measurements, application and licence will be kept on file by the Water Resource Officer. The original application and signed license should be kept on file in the applicable regional office (Brandon or Stonewall).
12. No formal assessment report or circulation is required.
13. Where a provincially-approved Integrated Watershed Management Plan exists, the plan should be consulted by Water Control Works and Drainage Licensing staff to ensure approvals are not in contravention of the plan.

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14. Vegetation and soil disturbance should be minimized during construction and exposed soil areas should be re-vegetated immediately following construction. Industry accepted drain construction and erosion control methods must be employed to prevent erosion.
15. If proposed project is approved, a licence signed on behalf of the Minister of Water Stewardship will be issued to the applicant.
16. The license should include exhibit(s) delineating location of water control works, direction of flow, culvert locations and sizes, legal descriptions and a north arrow. Minor water control works – dams must include a depiction of the area flooded by the dam.
17. All expedited authorizations for minor water control works are issued in perpetuity with conditions that ensure project integrity and functionality and minimize environmental impacts.
18. If a license application is denied based solely on CLI Soil Capability for Agriculture, the applicant may supply additional soils data collected and analyzed by a recognized soil fertility expert, for consideration by Manitoba Water Stewardship. If additional data supporting higher soil fertility is found acceptable, the license application may be reconsidered.
19. Should an applicant for minor water control works deliberately supply false information on an application or construct works that are beyond the definition of minor water control works or beyond the conditions of a license, eligibility for future authorization without inspection will be removed. It is further recommended that a Water Resource Officer consider enforcement action against the licensee to ensure works are in compliance with the act and to impose a penalty for proceeding with water control works without authorization.

**Manitoba Water Stewardship  
Water Control Works and Drainage Licensing Section  
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