

# TERMS OF REFERENCE

---

## WILLOW CREEK INTEGRATED WATERSHED MANAGEMENT PLAN

---

### 1. INTRODUCTION

Manitoba's vision for water is "The best water for all life and lasting prosperity". Striving to attain this vision, Manitoba has undertaken many water related initiatives including the review and consolidation of existing water legislation. As a result, Manitoba developed *The Water Protection Act* which was proclaimed in January of 2006. The purpose of *The Act* is to provide for the protection and stewardship of Manitoba's water resources and aquatic ecosystems.

Part 3 of *The Water Protection Act* relates to watershed management. It describes the designation, role and responsibilities of a Water Planning Authority, required content of a watershed management plan, required consultations, process for plan approval and amendments, establishment and purpose of the Water Stewardship Fund, and the establishment, role and responsibilities of the Manitoba Water Council. Further, it identifies the importance of developing plans to address land drainage and flood control, protect drinking water sources, and identify ways that the plan can be implemented, monitored and evaluated.

In December 2008, through a Memorandum of Understanding signed with Manitoba Water Stewardship, the East Interlake Conservation District (EICD) became the Water Planning Authority for the Willow Creek Watershed (05SB). The Planning Area for the Willow Creek Integrated Watershed Management Plan is shown in Figure 1.

The EICD is located along the Western shores of Lake Winnipeg and includes the municipalities of Armstrong, Bifrost, Fisher, Gimli, Rockwood, Rosser, and St. Andrews, West St. Paul, Woodlands, the City of Selkirk, towns of Arborg, Stonewall, Teulon and Winnipeg Beach, and the villages of Dunnottar and Riverton. The mandate of the EICD is "to promote the sustainable use and management of land and water resources within the East Interlake region of Manitoba."

### 2. PURPOSE

The purpose of the IWMP is to identify priority land and water-related issues in the watershed, determine projects or policies targeted to address the issues, and identify how land and water management programming will be cooperatively applied throughout the watershed.

### **3. PARTICIPANTS AND RESPONSIBILITIES**

#### **WATER PLANNING AUTHORITY (WPA)**

The Water Planning Authority is the organization deemed responsible for the development and implementation of an integrated watershed management plan for a watershed.

Through a Memorandum of Understanding signed with Manitoba Water Stewardship in December 2008, the East Interlake Conservation District became the Water Planning Authority for the Willow Creek Watershed (05SB - Figure 1).

The roles of the WPA are identified in *The Water Protection Act* (Appendix A).

#### **PROJECT MANAGEMENT TEAM (PMT)**

The Project Management Team, also known as the Steering Committee or Planning Team, is the secretariat to the Water Planning Authority and guides the overall management and development of the plan.

Responsibilities:

- Identify a Chairperson to plan meetings, agendas, lead discussions, and be the spokesperson for the group
- Coordinate all plan related meetings and advertising
- Establish a Watershed Team
- Facilitate and lead the public consultation and stakeholder meetings;
- Manage the budget and plan schedule
- Record and distribute meeting minutes to the Water Planning Authority and Watershed Team members and post on WPA website
- Collect and compile all information submissions, technical reports and consultation inputs
- Engage participation and interest from the watershed community
- Ensure adherence to the Terms of Reference and *The Water Protection Act*
- Clearly identify who will write and edit the plan
- Provide input and edits to the plan (draft and final)
- Develop a communications strategy to inform watershed residents of the IWMP
- Complete other tasks as required

Membership:

- Representative(s) from Water Planning Authority
- Manitoba Water Stewardship - Watershed Planner
- Representatives from key stakeholder groups

## **WATERSHED TEAM**

The Watershed Team is a large group (~30 people) and is comprised of representatives from organizations with background knowledge and specialization in certain areas of land, water, agriculture or natural resource management. They are initially expected to provide an overview of existing information to facilitate stakeholder discussions and understanding of the watershed, and later to identify issues, assess options, and provide recommendations and approaches to address specific watershed issues.

Membership should include, but is not limited to:

- Manitoba Water Stewardship – Planning and Coordination Branch, Office of Drinking Water, Water Control Systems Management, Water Science and Management, Fisheries Branch
- Manitoba Conservation – Environmental Services, Wildlife and Ecosystem Protection
- Manitoba Agriculture, Food and Rural Initiatives
- Planning Districts
- Rural Municipalities

## **MINISTER OF WATER STEWARDSHIP**

As identified in Section 18 of *The Water Protection Act*, the Water Planning Authority must submit its watershed management plan to the Minister of Water Stewardship for approval. Upon receiving a proposed plan, the Minister may refer it to the Manitoba Water Council for review and comment.

## **4. PRINCIPLES OF INTEGRATED WATERSHED MANAGEMENT**

<b>Mutual Dependence</b>	Water, land and related resources are interdependent and must be managed as such.
<b>Accountability</b>	Each of us is responsible for the social, economic and environmental consequences of our decisions and accountable for our actions.
<b>Transparency</b>	Actions must be based on relevant information, and team members must use an accessible, open and informed decision making process.
<b>Respect</b>	All interactions must be fair and respectful and provide for an environment for sharing ideas and solutions. Everyone has an important role.
<b>Balance and Integration</b>	Consideration of social, economic and environmental costs and benefits must be an integral part of all decision making.

<b>Be Local</b>	Watershed management and planning will provide forums that will encourage and provide opportunity for consultation and meaningful participation in decision making.
<b>Coordinated and Cooperative Efforts</b>	Coordinated and cooperative efforts are needed among all government and non-government interests.
<b>Recognition</b>	There must be recognition of existing rights, treaties, agreements and obligations in all decision making.
<b>Transition Takes Time</b>	Sustainability is a journey that requires constant feedback, learning and adjustment. In the short-term, the elements of sustainability may not always be in balance.
<b>Commitment</b>	Watershed management requires a long-term commitment, with continual adaptation and modification based on information provided by regular monitoring and updates.
<b>Support</b>	Actions require resources. Support for the planning process extends beyond meeting participation, and is best shown through action on the ground.

## 5. SCHEDULE

	KEY ACTIVITY	DELIVERABLE	TIMELINE
PRE-PLANNING	Designate a Water Planning Authority to develop the Willow Creek IWMP	Memorandum of Understanding	December 2008
	Form a balanced Project Management Team	Project Management Team	June 2009
	Develop a Terms of Reference to guide the watershed management planning process	Terms of Reference	July 2009

PLAN PREPARATION	Hold first round of public / stakeholder consultations	List of well-defined and prioritized issues, options, objectives, and measures of success	August 2009
	Begin to compile existing literature and information to develop watershed information	"Watershed Characterization" document	August 2009
	Summarize information from public consultations	"Watershed Issues identified by Public" summary document	September 2009
	Begin to develop Source Water Assessments for all Public Water Supply systems	Source Water Protection Assessments	August 2009
	Watershed Team Meeting #1	Information exchange, issue confirmation and draft recommendations	November 2009
	Summarize information from first round of public / stakeholder consultations and Watershed Team meetings	Draft Action IWMP	January 2010
	Watershed Team Meeting #2	Confirm plan direction, identify gaps, discuss commitments and revise recommendations	February 2010
	Draft IWMP	1 <sup>st</sup> Draft IWMP	June 2010
	Watershed Team Meeting #3	Comments and suggestions to incorporate into Draft IWMP	September 2010
	Public / stakeholder review of Draft IWMP	Comments of Draft IWMP	October 2010
	Edit Draft IWMP based on public feedback	2 <sup>nd</sup> Draft IWMP	November 2010
	Water Planning Authority to review Draft IWMP	Water Planning Authority approves IWMP	December 2010
Submit IWMP to Minister of Water Stewardship for review and approval	Provincially approved IWMP	January 2011	

IMPLEMENTATION	Implement the IWMP	Review Programs and Budget, establish and maintain partnerships, measure success and do projects	January 2011 (ongoing)
	Monitor and evaluate actions	IWMP reporting	Annually
	Revisit and update IWMP	Revisit IWMP Revise IWMP	5 years 10 years

## 6. BUDGET

Manitoba Water Stewardship provides a watershed planning grant of \$25,000 to the Water Planning Authority. The eligible expenses for the planning grant are outlined in the MOU.

Manitoba Water Stewardship and other Provincial and Federal government departments provide in-kind technical assistance throughout the planning process, as required.

The East Interlake Conservation District provides significant financial and technical assistance throughout the planning process.

<b>Category</b>	<b>Task</b>	<b>Amount</b>
Meetings (coffee/donuts, hall rentals)	Project Management Team (12)	\$5,000
	Public Consultation	\$4,000
Design and printing	Advertising	\$3,000
	Draft IWMP	\$2,000
	Final IWMP	\$5,000
	Promotional tools	\$3,000
Implementation	Advertising	\$1,000
	Promotional tools	\$2,000
<b>TOTAL</b>		<b>\$25,000</b>

## 7. ENDORSEMENT

The following partners support the principles of integrated watershed management, and agree to work together to develop the Willow Creek Integrated Watershed Management Plan and implement the recommendations in the plan that fall within the mandate of their organization.

The intent of endorsing this document is to gain support and build partnerships and cooperation among people and organizations in order to assist with the protection, conservation and restoration of water, aquatic ecosystems and drinking water sources in the Willow Creek Watershed.

---

Harold Foster  
Chair, East Interlake Conservation District

---

Date

---

Erin Shay  
Manitoba Water Stewardship

---

Date

---

Tammy Axelsson  
Mayor, RM of Gimli

---

Date

---

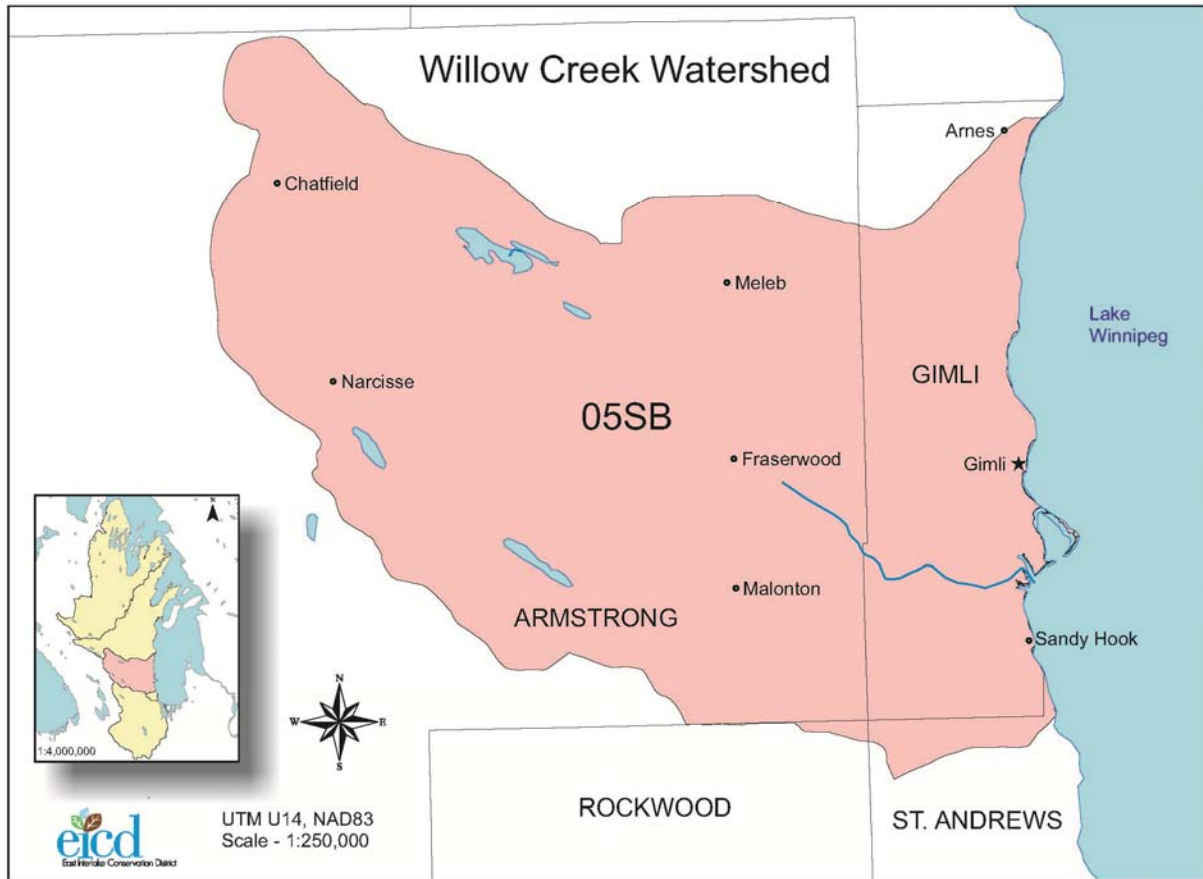
Les Marchak  
Reeve, RM of Armstrong

---

Date

Attached:

Figure 1 – Willow Creek Watershed  
Appendix A – *The Water Protection Act*



**Figure 1 – Willow Creek Watershed**



## Appendix A – Water Protection Act

C.C.S.M. c. W65

### The Water Protection Act

Table of Contents		Regulations
-------------------	--	-------------

(Assented to June 16, 2005)

WHEREAS an abundant supply of high quality water is essential to sustain all ecological processes, life-support systems and food production, and is paramount to the environmental, economic and social well-being of Manitoba now and in the future;

AND WHEREAS access to sufficient, safe, acceptable, and affordable water for personal and domestic uses is internationally recognized as a fundamental right of citizens;

AND WHEREAS the Government of Manitoba recognizes the importance of the Canada-United States Boundary Waters Treaty and other inter-jurisdictional agreements protecting water, and the shared right and responsibility of all jurisdictions in the Hudson Bay drainage basin to protect water resources within the basin;

AND WHEREAS to most effectively ensure that drinking water is kept clean, safe and reliable, it is necessary to complement the provisions of *The Drinking Water Safety Act* with additional measures to protect drinking water sources;

AND WHEREAS Manitobans recognize that many human activities, including the use and consumption of water for all purposes, the production of waste and wastewater effluent, and industrial, agricultural and recreational activities, may impair the quality and quantity of our water resources, and that stewardship of these invaluable resources is a responsibility shared by all;

AND WHEREAS the Government of Manitoba is committed to watershed planning as an effective means to address risks to water resources and aquatic ecosystems, and believes that residents of watersheds should be consulted when watershed plans are developed;

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

#### PART 1

#### INTRODUCTORY PROVISIONS

##### Definitions

1(1) The following definitions apply in this Act.

**"approved watershed management plan"** means a watershed management plan approved under Part 3. (« plan de gestion d'un bassin hydrographique approuvé »)

**"aquatic ecosystem"** means the components of the earth related to, living in or located in or on water or the beds or shores of a water body, including but not limited to

(a) all organic and inorganic matter, and

(b) all living organisms and their habitat,

and their interacting natural systems. (« écosystème aquatique »)

**"conservation district"** means a district as defined in *The Conservation Districts Act*. (« district de conservation »)

**"development plan"** means a development plan as defined in *The Planning Act*. (« plan directeur »)

**"director"** means a person designated under section 3 as a director of water protection. (« directeur »)

**"groundwater"** means all water under the surface of the ground, whether in solid or liquid form. (« eaux souterraines »)

**"invasive species"** means an organism designated in the regulations as an invasive species. (« espèce envahissante »)

"**minister**" means the minister appointed by the Lieutenant Governor in Council to administer this Act. (« ministre »)

"**municipality**" includes a community as defined in *The Northern Affairs Act*. (« municipalité »)

"**nutrient**" means any substance that provides nourishment and promotes growth of aquatic organisms when transmitted to water. (« nutrifiant »)

"**person**" includes a municipality, partnership, limited partnership, limited liability partnership, syndicate, trustee and joint venture, and an association of persons. (« personne »)

"**planning district**" means a planning district as defined in *The Planning Act*. (« district d'aménagement »)

"**prescribed**" means prescribed by regulation.

"**riparian area**" means 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. (« zone riveraine »)

"**water**" means all surface water and groundwater, whether in solid or liquid form. (« eaux »)

"**water body**" means any body of flowing or standing water, whether naturally or artificially created, and whether the flow or presence of water is continuous, intermittent or occurs only during a flood, including but not limited to a lake, river, creek, stream, slough, marsh, swamp and wetland, including ice on any of them. (« plan d'eau »)

"**water council**" means the Manitoba Water Council established in section 24. (« Conseil des eaux »)

"**water planning authority**" means a water planning authority designated for a watershed under section 14. (« organisme de planification des eaux »)

"**watershed**" means an area designated as a watershed under section 14. (« bassin hydrographique »)

#### Reference to "Act" includes regulations

1(2) A reference to "this Act" includes the regulations made under this Act.

#### Purpose of the Act

2 The purpose of this Act is to provide for the protection and stewardship of Manitoba's water resources and aquatic ecosystems, recognizing

- (a) that Manitoba's social and economic well-being is dependent upon the sustained existence of a sufficient supply of high quality water;
- (b) the importance of comprehensive planning for watersheds, with respect to water, land and ecosystems, on a basis that acknowledges and considers their interdependence;
- (c) that water resources and aquatic ecosystems require protection to ensure the high quality of drinking water sources;
- (d) the importance of applying scientific information in decision-making processes about water, including the establishment of standards, objectives and guidelines;
- (e) the need to protect riparian areas and wetlands; and
- (f) the benefits of providing financial incentives for activities that protect or enhance water, aquatic ecosystems or drinking water sources.

#### Director of water protection

3 The minister may designate one or more persons as directors of water protection.

## PART 2

### WATER PROTECTION

#### WATER QUALITY STANDARDS, OBJECTIVES AND GUIDELINES

##### Water quality standards, objectives and guidelines

4(1) The Lieutenant Governor in Council may make regulations setting or adopting water quality standards, objectives or guidelines.

**Standards, etc. for use in approvals under other Acts**

4(2) A regulation under subsection (1) may provide that a person issuing an approval or making a decision under *The Environment Act* or any other specified Act or regulation must

- (a) consider the standard, objective or guideline; or
- (b) in circumstances specified in the regulation, refuse to issue an approval or make a decision unless its effect will ensure compliance or consistency with the standard, objective or guideline.

**WATER QUALITY MANAGEMENT ZONES**

**Water quality management zones**

5(1) On the recommendation of the minister, the Lieutenant Governor in Council may make regulations

- (a) designating any area of the province as a water quality management zone for the purpose of protecting water, aquatic ecosystems or drinking water sources;
- (b) governing, regulating or prohibiting any use, activity or thing in a water quality management zone or any part of a zone.

**Considerations in recommending regulations re zone**

5(2) Before recommending that a regulation be made under subsection (1), the minister may consider scientific and other information relating to

- (a) the physical characteristics of land in the area, including its topography and soil types;
- (b) the ability of the soil or water in the area, or water downstream of the area, to assimilate nutrients and other pollutants;
- (c) water bodies or groundwater in the area, including information relating to
  - (i) the water quality characteristics of the water,
  - (ii) the susceptibility of the water to contamination or adverse changes in level or in-stream flow, and
  - (iii) the extent to which the water is pristine or relatively undisturbed by human activity;
- (d) the area's aquatic ecosystems;
- (e) whether the area contains a source, or a potential source, of drinking water;
- (f) whether the area supports species that are sensitive to alterations in water quality or quantity resulting from human activity;
- (g) whether the area provides habitat for endangered species; and
- (h) any other matter that the minister considers relevant.

**Additional considerations**

5(3) Before recommending that a regulation be made under subsection (1), the minister must also consider

- (a) water quality standards, objectives and guidelines that apply to the area;
- (b) approved watershed management plans that apply to the area; and
- (c) the proximity of the area to a national park, provincial park, ecological reserve or other protected area.

**Maps of zones**

5(4) A regulation made under subsection (1) may contain a map showing

- (a) the boundaries of a zone; and
- (b) areas within a zone where a use, activity or thing is governed, regulated or prohibited.

**Consultation with water planning authority**

6 Before a regulation is made under subsection 5(1), the minister may consult with any water planning authority that has been designated in respect of an area proposed to form all or part of the water quality management zone. This consultation does not affect any requirement for other consultation under this Act.

#### **Advertising proposed regulations**

7(1) At least 90 days before a regulation is made under subsection 5(1), the minister must, in a newspaper of general circulation in the affected area, advertise the fact that a draft of the proposed regulation has been filed in the public registry.

#### **Written objections**

7(2) Within 60 days after an advertisement is published under subsection (1), and subject to subsection (3), any person may refer a written objection to the proposed regulation to a director, in a form approved by the minister.

#### **Scientific or technical information**

7(3) An objection under subsection (2) must be based on written scientific or technical information relating to an area proposed to form all or part of the water quality management zone. This information must be provided to the director at the time the objection is referred.

#### **Director's actions**

7(4) Upon receiving an objection under subsection (2), the director must

- (a) notify the minister that an objection has been received; and
- (b) consider the objection, and the supporting scientific or technical information.

#### **Advice to the minister**

7(5) Within 60 days after notifying the minister of the objection, the director must give advice to the minister as to whether the proposed regulation should be varied or revised.

#### **Expert advice re scientific or technical issues**

7(6) Before providing advice under subsection (5), if the director determines that there is an unresolved scientific or technical issue, he or she must obtain expert advice in such a manner as may be set out in the regulations.

#### **Review of regulation**

8 The minister must, not later than five years after the date on which a regulation under section 5 comes into force, require the water council to

- (a) review the effectiveness of the regulation and, in the course of that review, consult with any persons affected by the regulation that the council considers appropriate; and
- (b) recommend, if it considers it advisable, that the regulation be amended or repealed.

The minister may, in addition, require the council to undertake such a review at any other time.

## **INVASIVE SPECIES**

#### **Invasive species**

9 The Lieutenant Governor in Council may make regulations governing, regulating or prohibiting the importation, possession, transfer or release of invasive species.

## **WATER CONSERVATION**

#### **Regulations re water conservation**

- 10 The Lieutenant Governor in Council may make regulations
- (a) establishing water conservation programs;
  - (b) generally respecting the reduction of water usage in Manitoba.

## SERIOUS WATER SHORTAGE

### **Declaration of serious water shortage**

11(1) If the minister considers that extraordinary measures are necessary to ensure a reasonable water supply, the minister may declare a serious water shortage in respect of all or part of Manitoba.

### **Actions by minister during serious water shortage**

11(2) If a serious water shortage is declared, the minister may take any action, make any regulation or issue any order that in his or her opinion is necessary to prevent, minimize or alleviate the water shortage.

### **Communication of serious water shortage**

11(3) Immediately after

- (a) a serious water shortage is declared under subsection (1); or
- (b) a regulation is made or an order is issued under subsection (2);

the minister must ensure that the details of the declaration, regulation or order are communicated by the most appropriate means to persons affected by it.

### **Declaration that shortage has ended**

11(4) The minister may declare that a serious water shortage has ended.

### **Regulations Act does not apply**

11(5) *The Regulations Act* does not apply to

- (a) a declaration of a serious water shortage made under subsection (1) or a declaration that a serious water shortage has ended made under subsection (4); or
- (b) a regulation made or an order issued under subsection (2).

### **Order prevails over *The Water Rights Act***

11(6) Unless otherwise stated in the regulation or order, a regulation or order under this section prevails over a permit or licence issued under *The Water Rights Act*.

### **No injunction**

11(7) No injunction lies against the minister, or any person acting under the authority of a regulation or order, to restrain or prevent a person from taking measures under this section.

### **Action by minister if order not complied with**

12(1) If a person fails to comply with an order issued by the minister, the minister may

- (a) cause anything to be done that is required by the order; and
- (b) take any other measures that the minister considers necessary to prevent, minimize or alleviate the water shortage.

### **Order to pay costs**

12(2) Upon taking any action under clause (1)(a), the minister may order the person to whom the order was directed to pay the costs of taking that action.

### **Enforcing cost-recovery order**

12(3) An order to pay costs made under subsection (2) may be filed in the Court of Queen's Bench and enforced as if it were an order of the Court.

### **Compensation where allocation cancelled or reduced**

13(1) Where the effect of any action taken or regulation or order made under subsection 11(2) is to

- (a) cancel or reduce the allocation of water at any point or place to a person holding a licence under *The Water Rights Act*, and
- (b) allocate or increase the allocation of water at that point or place to another person who does not hold a licence, or whose licence is, relative to the licence referred to in clause (a), lower in precedence under section 8 (precedence of licences) of *The Water Rights Act*;

the person whose allocation is cancelled or reduced is entitled to receive from, and shall be paid by the other person, compensation for any loss or damage resulting from the cancellation or reduction.

### **No compensation in certain circumstances**

13(2) Despite subsection (1), no compensation is payable where the action is taken, or the regulation or order is made, for a purpose relating to public health or the provision of drinking water. The determination of the purpose of the action, regulation or order is to be made by the minister.

### **Agreement respecting compensation**

13(3) Within 60 days after action is taken or an order or regulation is made that has the effect described in subsection (1), the persons described in that subsection may make an agreement setting out

- (a) the amount of compensation payable and the terms of payment; and
- (b) the undertaking of one person to pay that compensation, on those terms, to the other person.

### **Arbitration**

13(4) Where an agreement under subsection (3) is not made, the amount of compensation and the terms of payment must be determined in accordance with *The Arbitration Act*.

## **PART 3**

### **WATERSHED MANAGEMENT**

#### **WATERSHED MANAGEMENT PLANS**

### **Designation of watersheds and authorities**

14 The Lieutenant Governor in Council may by regulation

- (a) designate a watershed for the purposes of this Act, and specify its boundaries;
- (b) designate a water planning authority for a watershed, which may be
  - (i) the board of a conservation district,
  - (ii) the board of a planning district,
  - (iii) the council of a municipality,
  - (iv) any other person or entity, or
  - (v) a joint authority consisting of two or more entities or persons described in subclauses (i) to (iv);

(c) prescribe the date by which the authority must submit a watershed management plan for approval, terms of reference for the preparation of the plan, and any other terms or conditions that the Lieutenant Governor in Council considers necessary.

### **Considerations in preparing a plan**

15 In preparing a watershed management plan, a water planning authority must consider the following:

- (a) water quality standards, objectives and guidelines that apply to the watershed;
- (b) whether a water quality management zone is included within any part of the watershed, and if so, any regulations made under section 5 respecting the zone;

- (c) studies that the authority considers relevant relating to water, land use, demographics, the capacity of the environment to accommodate development, and any other matter related to present or future physical, social or economic factors;
- (d) comments received through public consultation or public meetings held under section 17;
- (e) prescribed water management principles;
- (f) relevant provincial land use policies, development plans, and zoning by-laws;
- (g) any other information that the authority considers relevant.

### **Content of a watershed management plan**

**16(1)** A watershed management plan must

- (a) identify issues relating to the protection, conservation or restoration of water, aquatic ecosystems and drinking water sources in the watershed;
- (b) contain objectives, policies and recommendations respecting some or all of the following:
  - (i) the protection, conservation or restoration of water, aquatic ecosystems and drinking water sources,
  - (ii) the prevention, control and abatement of water pollution, including wastewater and other point-source discharges, and non-point sources of pollution,
  - (iii) land drainage and flood control, including the maintenance of land drainage and flood control infrastructure,
  - (iv) activities in water quality management zones, riparian areas, wetlands, flood areas, flood plains and reservoir areas,
  - (v) water demand management, water use practises and priorities, the conservation of water supplies, and the reduction of water use and consumption during droughts and other periods of water shortage,
  - (vi) the supply, distribution, storage and retention of water, including measures to ensure persons in the watershed have access to clean potable water,
  - (vii) emergency preparedness to address spills, accidents and other emergencies that may affect water, an aquatic ecosystem or a drinking water source;
- (c) specify linkages between water management and land use planning so as to facilitate the adoption, in a development plan or other planning instrument, of some or all of the provisions of the watershed management plan; and
- (d) identify ways in which the plan can be implemented, monitored and evaluated, recognizing the need to implement the plan with the assistance of individuals, groups, and organizations.

### **Additional content**

**16(2)** A watershed management plan may also

- (a) contain maps to assist in its interpretation; and
- (b) specify a date by which the plan must be reviewed.

### **Consultation**

**17(1)** In preparing a watershed management plan, the water planning authority must consult with the following:

- (a) if land within the watershed is in a conservation district or planning district, the board of that district;
- (b) the council of any municipality located wholly or partly within the watershed;
- (c) any band, as defined in the *Indian Act* (Canada), that has reserve land within the watershed; and
- (d) any other person or entity specified by the minister.

### **Public meetings**

**17(2)** The water planning authority must hold one or more public meetings to consult with residents of the watershed on the preparation of the plan.

### **Plan to be submitted to minister for approval**

18 A water planning authority must submit its watershed management plan to the minister for approval.

### **Referral of plan to the water council**

19(1) After receiving a proposed plan, the minister may refer it to the Manitoba Water Council for its review and advice.

### **Approval of the minister**

19(2) If the proposed plan is satisfactory to the minister, the minister may approve it in the form in which the water planning authority submitted it.

### **Referral of plan back to authority**

19(3) If the proposed plan is not satisfactory to the minister, the minister may refer it back to the water planning authority to be revised in accordance with any directions that the minister makes.

### **Revision of plan**

19(4) The water planning authority must revise a proposed plan that is referred back to it in accordance with the minister's directions, and re-submit it to the minister for approval within the time required by the minister.

### **Amending a plan after approval**

20(1) If a water planning authority proposes to make any amendments to an approved plan, it must submit them to the minister for approval.

### **Minister may require amendments**

20(2) In addition, the minister may require a water planning authority to make amendments to an approved plan about any matter the minister specifies, and the authority must prepare the amendments and submit them to the minister for approval.

### **Section 19 applies**

20(3) Section 19 applies to amendments under this section.

### **Notice of an approved plan**

21 The minister must provide notice of the approval or amendment of a watershed management plan in accordance with any requirements specified in the regulations.

### **Periodic review**

22 A water planning authority must review its approved watershed management plan, in accordance with the regulations,

- (a) when directed to do so by the minister; and
- (b) on or before any review date specified in the plan.

Sections 15 to 21 apply to the review of a plan, and its approval, with the necessary changes.

### **Plan to be considered in decision-making**

23 The Lieutenant Governor in Council may, by regulation, require that an approved watershed management plan be considered before a prescribed decision is made or a prescribed approval is issued under this or any other specified Act or regulation.

## **MANITOBA WATER COUNCIL**

### **Manitoba Water Council**

24 The "Manitoba Water Council" is established.

### **Responsibilities of the water council**



- 25 The water council has, subject to the direction of the minister, the following responsibilities:
- (a) to monitor the development and implementation of watershed management plans in the province;
  - (b) to review regulations respecting water quality management zones, and provide advice to the minister;
  - (c) to advise the minister about matters relating to water generally;
  - (d) to coordinate the activities of advisory boards and similar entities that perform functions relating to water, including advisory boards and other entities specified by regulation;
  - (e) to assist in reporting sustainability indicators relating to water.

The water council must also perform any other duties assigned to it by an Act or regulation.

#### **Members**

26(1) The water council is to consist of at least five members appointed by the Lieutenant Governor in Council, who in the opinion of the Lieutenant Governor in Council are representative of the regional diversity of Manitoba and of local government, agricultural and environmental perspectives.

#### **Term of office**

26(2) The term of a member is as specified by the Lieutenant Governor in Council in the appointment, and a member continues to hold office until he or she is reappointed, a successor is appointed or the appointment is revoked.

#### **Chair and vice-chair**

26(3) The Lieutenant Governor in Council must designate one of the members of the water council as chair and may designate another member as vice-chair.

#### **Expenses**

27 Each member of the water council may be reimbursed for such reasonable expenses as may be approved by the minister.

#### **Minister may refer matter to water council**

28 The minister may refer any matter within the water council's responsibilities to the water council. The water council must, in accordance with the terms of reference, consider the matter and give the minister a written report of its findings and recommendations.

## **WATER STEWARDSHIP FUND**

#### **Water Stewardship Fund**

- 29(1) The "Water Stewardship Fund" is established, consisting of
- (a) amounts appropriated by an Act of the Legislature for the fund;
  - (b) contributions received from any source by way of grant, gift, donation or bequest;
  - (c) interest or other income earned from the investment of money in the fund;
  - (d) amounts received under a Federal-Provincial agreement or any other agreement; and
  - (e) any other money received by the fund.

#### **Fund to be held in separate trust account**

29(2) The fund is to be under the control and supervision of the Minister of Finance and must be held in trust for the purposes specified in subsection (3), in a separate account in the Consolidated Fund.

#### **Purposes of the fund**

- 29(3) The purposes of the fund are
- (a) to provide grants in support of research, projects and activities that further the purpose of this Act;

(b) to provide grants to assist in the implementation of watershed management plans or water conservation programs; and

(c) to support any other water management or water quality purpose that the Lieutenant Governor in Council considers advisable.

#### **Payments out of fund**

29(4) Subject to the regulations, payments may be made out of the fund for

(a) the amount of any grant made by the minister that is consistent with the purpose of the fund, on any terms and conditions he or she considers appropriate;

(b) the cost of marketing and promoting the fund or a funded project; and

(c) administrative and reporting costs associated with the fund, including salaries and contract expenses.

#### **Fund not public money**

29(5) The money contained within the fund, other than amounts credited to the fund under clause (1)(a), is not public money within the meaning of *The Financial Administration Act*.

#### **Regulations respecting the fund**

29(6) The Lieutenant Governor in Council may make regulations

(a) respecting grants, including the terms and conditions on which grants may be made by the minister; and

(b) respecting the fund and any payments authorized by subsection (4) to be made from the fund.

## **PART 4**

### **COMPLIANCE AND GENERAL PROVISIONS**

#### **Designation of officers**

30 The minister may designate any persons, or the members of any class of persons, as officers for the purposes of this Act.

#### **Inspection authority of officers**

31(1) When reasonably required to administer or determine compliance with this Act, an officer may enter and inspect any place or premises, other than a dwelling, at any reasonable time.

#### **Entry into dwelling with consent**

31(2) Despite subsection (1), an officer may enter and inspect a dwelling with the consent of the owner or occupant.

#### **Warrant for entry into dwelling**

31(3) On application by an officer, a justice may at any time issue a warrant authorizing the officer and any other person named in the warrant to enter and inspect a dwelling, if the justice is satisfied there are reasonable grounds to believe that

(a) entry to the dwelling is necessary for the purpose of administering or determining compliance with this Act; and

(b) in respect of the dwelling,

(i) entry has been refused or there are reasonable grounds to believe that entry will be refused,

(ii) the occupant is temporarily absent, or

(iii) the dwelling is unoccupied.

#### **Conditions**

31(4) A warrant may be made subject to any conditions specified in it.

### **Assistance to officials**

**31(5)** In exercising a power under this section, an officer may use such force or obtain such assistance from a peace officer or other person as he or she considers necessary.

### **Additional inspection powers**

**32(1)** In addition to the powers referred to in section 31, when reasonably required to administer or determine compliance with this Act, an officer may

- (a) make any inspection, investigation, examination, test, analysis or inquiry that he or she considers necessary;
- (b) require any substance, thing, solid, liquid, gas, plant, animal or other organism to be produced for inspection, examination, testing or analysis;
- (c) take samples of or seize any substance, thing, solid, liquid, gas, plant, animal or other organism; and
- (d) take photographs or other images of a place or premises, or any condition, process, substance, thing, solid, liquid, gas, plant, animal or other organism located at or in it.

### **Use of data processing system and copying equipment**

**32(2)** In carrying out an inspection under this Act, an officer may

- (a) use a data processing system at the place where the records, documents or things are kept to examine any data contained in or available to the system;
- (b) reproduce, in the form of a printout or other intelligible output, any record from the data contained in or available to a data processing system at the place; and
- (c) use any copying equipment at the place to make copies of any record or document.

### **Assistance to officials**

**32(3)** A person who has custody or control of a record, document or thing referred to in subsection (1) or (2) must give the officer

- (a) all reasonable assistance to enable the officer to carry out his or her duties; and
- (b) any information that the officer may reasonably require.

## **OFFENCES AND PENALTIES**

### **Offences**

**33(1)** A person is guilty of an offence who

- (a) contravenes a provision of this Act, or fails to comply with a provision of an order issued under this Act;
- (b) makes a false statement to an officer or any other person acting under the authority of this Act;
- (c) provides a false statement in an application, record or other document given or required under this Act; or
- (d) hinders, obstructs or interferes with or attempts to hinder, obstruct or interfere with an officer or any other person acting under the authority of this Act.

### **Continuing offence**

**33(2)** When a contravention of this Act or a failure to comply with an order issued under this Act continues for more than one day, the person is guilty of a separate offence for each day the contravention or non-compliance continues.

### **Directors and officers of corporations**

**33(3)** If a corporation commits an offence under this Act, a director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offence is also guilty of the offence.

### **Penalties for individuals**

**33(4)** Except as provided in subsection (5), a person who is guilty of an offence under this Act is liable on summary conviction,

(a) for a first offence, to a fine of not more than \$50,000. or imprisonment for a term of not more than six months, or both; and

(b) for each subsequent offence, to a fine of not more than \$100,000. or imprisonment for a term of not more than one year, or both.

#### **Penalties for corporations**

**33(5)** A corporation that is guilty of an offence under this Act is liable on summary conviction,

(a) for a first offence, to a fine of not more than \$500,000.; and

(b) for each subsequent offence, to a fine of not more than \$1,000,000.

#### **Limitation period**

**33(6)** A prosecution for an offence under this Act may not be commenced later than one year after the day on which evidence sufficient to justify a prosecution for the offence came to the knowledge of an officer; and the certificate of an officer as to the day on which the evidence came to his or her knowledge is evidence of that date.

#### **Certificate of analyst admissible**

**34(1)** A certificate appearing to be signed by an analyst — or a copy or extract of the certificate certified by the analyst as a true copy or extract — stating that the analyst has analyzed a sample of water or other substance, and giving the results, is admissible in evidence in any proceeding as proof of the facts stated, unless the contrary is shown. Proof of the analysts's appointment or signature is not required.

#### **Serving certificate on other parties**

**34(2)** A party intending to produce a certificate in a proceeding must give notice of that intention and a copy of the certificate to each other party at least seven days before the date fixed for the hearing.

### **REPORTING VIOLATIONS**

#### **Persons may report suspected violation**

**35(1)** Any person who reasonably believes that a violation of this Act has occurred, or may occur, may report the circumstances leading to that belief to an officer.

#### **Protection from liability**

**35(2)** No action or other proceeding may be brought against a person for providing information in good faith under this section.

#### **Adverse employment action prohibited**

**35(3)** No employer shall take adverse employment action against an employee because that person provided information in good faith under this section.

#### **No interference or harassment**

**35(4)** No person shall interfere with or harass a person who provides information under this section.

### **GENERAL PROVISIONS**

#### **Protection from liability**

**36** No action or proceeding may be brought against the minister, an officer or any other person acting under the authority of this Act for anything done or not done, or for any neglect

(a) in the performance or intended performance of a duty under this Act; or

(b) in the exercise or intended exercise of a power under this Act;

unless the person was acting in bad faith.

## **Act binds the Crown**

37 This Act binds the Crown.

## **PUBLIC REGISTRY**

### **Public registry**

38 The minister must maintain a public registry, which may be in electronic form, containing a copy of each of the following:

- (a) a draft of each proposed regulation or amendment to a regulation under this Act;
- (b) every declaration, order or regulation made under section 11 (serious water shortages);
- (c) every order respecting a commercial or agricultural operation made under a regulation described in section 40;
- (d) each watershed management plan approved by the minister under Part 3;
- (e) such other information as the minister may from time to time direct.

## **REGULATIONS**

### **Regulations**

39(1) The Lieutenant Governor in Council may make regulations

- (a) designating as an invasive species any non-indigenous organism that places or may place an aquatic ecosystem at risk of harm if it is introduced into or otherwise enters that ecosystem;
- (b) governing, regulating or prohibiting the discharge or other release of a pollutant into water;
- (c) respecting the siting, construction or operation of onsite wastewater management systems;
- (d) governing, regulating or prohibiting the access of livestock to water bodies or areas adjacent to water bodies;
- (e) respecting the providing of notice of an approval of, or amendment to, a watershed management plan under section 21;
- (f) respecting the review of an approved watershed management plan under section 22;
- (g) specifying advisory boards and other entities that perform functions relating to water for the purpose of the water council's coordinating role under clause 25(d);
- (h) prescribing water management principles that are consistent with the purposes of this Act;
- (i) respecting the establishment of programs to provide financial incentives to protect or enhance water, aquatic ecosystems or drinking water sources;
- (j) respecting the manner in which the director must obtain expert advice for the purpose of section 7;
- (k) defining any word or phrase used but not defined in this Act;
- (l) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act.

### **Regulation may apply to all or any part of province**

39(2) A regulation made under this Act may apply to the whole province or part of it, and may apply to one or more water bodies.

### **Public consultation in regulation development**

39(3) Except in circumstances that the minister considers to be of an emergency nature, in the formation or substantive review of regulations made under Part 2 other than section 11, or under any of clauses 39(1)(a) to (d), the minister must provide an opportunity for public consultation regarding the proposed regulation or amendment.

### **Transitional orders re existing operations**

40(1) A regulation made under Part 2 other than section 11, or under any of clauses 39(1)(a) to (d), may provide that an owner or operator of a commercial or agricultural operation affected by the regulation may apply to a director for an order

(a) specifying a transitional plan by which the applicant may, over a specified period, come into compliance with the regulation; and

(b) exempting the applicant from the application of all or part of the regulation for that period, or any part of it.

### Requirements of regulation

40(2) Where a regulation provides the right to apply for an order as described in subsection (1), the regulation must also provide

(a) that a director may issue an order only if he or she is satisfied that

(i) the applicant will suffer serious economic hardship unless an order is issued, and

(ii) issuing an order will not result in activities that

(A) present or may present an unacceptable risk of significant harm to water or an aquatic ecosystem, or

(B) place a drinking water source or public health at risk;

(b) that an order may be subject to terms and conditions;

(c) a process for appealing, to the minister,

(i) a director's decision whether to issue an order; and

(ii) a provision, term or condition of an order; and

(d) a process for varying an order, on the application of the government or the person subject to the order, if there has been a change in circumstances.

## PART 5

### AMENDMENTS TO OTHER ACTS

#### 42 and 43

**NOTE: These sections contained consequential amendments to other Acts that are now included in those Acts.**

## PART 6

### CONSEQUENTIAL AMENDMENTS, REPEAL AND COMING INTO FORCE

#### 44 to 46

**NOTE: These sections contained consequential amendments to other Acts that are now included in those Acts.**

### C.C.S.M. reference

47 This Act may be referred to as Chapter W65 of the *Continuing Consolidation of the Statutes of Manitoba*.

### Coming into force

48 This Act comes into force on a day to be fixed by proclamation.