

What We Heard

WATERSHED-BASED DRAINAGE AND WATER RESOURCE MANAGEMENT



EXECUTIVE SUMMARY

On August 22, 2017, the Manitoba government released a public consultation document to solicit feedback on the proposed *Watershed-Based Drainage and Water Resource Management* program. We received 45 responses from Manitobans during the formal consultation period.

Respondents appreciated proposed efforts to improve the drainage licensing process. Many saw conservation districts playing an expanded role, working with landowners, municipalities, water resource officers and the province to improve efficiency and co-ordination.

While most respondents were in favour of changes to the drainage licensing process, interpretation of the potential impact of the proposed changes varied widely. Opinions were divided regarding the need for drainage. Some commented on the importance of drainage for agricultural production. These respondents were generally concerned that implementation of the proposed changes could make drainage more difficult. Many other respondents were very concerned about the impact that drainage has had on water quality and water management in the province. These respondents cited a need for increased oversight and drainage control. They were concerned that the proposed changes would make drainage too easy.

Many respondents commented on the need for adequate resources for administration and enforcement of the proposed licensing process. There was strong support for increasing fines for illegal drainage to send a message to landowners. However, others believed that this would have a negative effect. Many respondents commented on the need for greater consistency in enforcement and expressed a need for clarification of the role of municipalities in drainage licensing.

Some respondents were in favor of placing more onus on downstream landowners to demonstrate the impacts of upstream drainage as there have been a number of instances where projects were delayed or halted by a downstream landowner without a perceived valid reason. However, many others felt very strongly that downstream landowners need to be protected from the impacts of upstream drainage and that it should be the responsibility of the project proponent who will benefit from the drainage to ensure that all downstream impacts and concerns have been addressed. A number of respondents suggested developing a dispute resolution process to address these concerns. It was also pointed out that Manitoba is downstream from all its neighbouring jurisdictions. Adopting this position could impact Manitoba's future jurisdictional water management discussions with transboundary neighbours.

There was general support for the classification system proposed for drainage licenses, although there was some concern that the system could be confusing, particularly regarding mandatory standards and how they would apply to Class 4 surface drains and Class 5 small dams and water retention projects. There was overall support for a simplified process for low-impact projects, to focus resources on larger impact projects. However, a number of commenters questioned how this would be implemented effectively, believing the system

could be easily abused. There was also support for developing Class 6 watershed--based plans for drainage and retention, although there were questions about what these would entail.

Of significant concern was the lack of co-ordination between municipal and provincial governments regarding the maintenance of drainage infrastructure and the impact that this has on the landscape. Conservation districts were often suggested as the appropriate body to improve the co-ordination of infrastructure maintenance, provided that adequate resources were made available.

A number of concerns were raised about the government mandate to implement the goal of no-net-loss of water retention capacity in watersheds. There were many outstanding questions and concerns regarding terminology and logistics as well as how, and if, this mandate could be effectively implemented on the landscape. A number of respondents were concerned that this policy was not adequate to compensate for the impact of decades of drainage and wetland loss on the landscape.

WATERSHED-BASED DRAINAGE AND RESOURCE MANAGEMENT

The proposed framework will include a suite of tools including policy, incentive programming and legislation. Specifically, it includes proposed changes to The Water Rights Act to enable development of regulations that streamline drainage and water control works. Development of a new, streamlined approach will allow the focus to shift to high-risk and high-impact projects and enforcement, while reducing red tape for lower-risk projects. The proposed approach will introduce some new concepts, including watershed-based approaches to surface water management, protection for valuable wetlands and provisions to maintain water retention capacity in watersheds.

A FRESH BALANCED APPROACH

WHAT WE SAID:

Current regulations require individual consideration of each project. Aside from the resources required to review individual applications, it also makes it difficult to consider the cumulative or whole watershed impacts of drainage and water control works. To provide a more co-ordinated watershed-based approach to surface water management, we must have a mechanism to consider projects on a watershed scale at the time of application.

WHAT WE HEARD:

Many respondents commented that the current drainage licensing system is not functioning effectively and that improvements to the process are overdue. Several suggested an expanded role for conservation districts in working with landowners, municipalities and water resource officers to improve co-ordination and communication at a watershed scale.

- Many noted that they are pleased to see the proposed changes, and emphasized that these changes are long overdue.
- Every passing day that legislation is not enacted, more drainage occurs, more wetlands are lost, and more nutrients are washed into our rivers and lakes. Much of this drainage is uncontrolled and illegal, the result of lack of enforcement and political will. The province has lost credibility when it comes to enforcing drainage regulations.
- The provincial government has set ambitious goals but now, it must have the political will to follow through by ensuring that adequate resources are available to implement them. Historically, drainage licensing has been woefully underfunded and understaffed.
- A number of respondents expressed frustration with the current drainage licensing system, specifically in dealing with multiple entities, including municipalities, Manitoba Infrastructure, water resource officers and conservation districts. It was suggested that conservation districts take on a planning and co-ordination role and develop watershed-based drainage plans to improve communication between all parties.

- Some suggested that water rights officers' territories should align with watershed boundaries and that they work closely with, and share resources with, conservation districts.
- Many respondents expressed frustration with inconsistent enforcement of existing drainage regulations. It was suggested that specific tools and processes be developed to support science-based evaluation and decision-making regarding drainage applications, and that water resource officers and conservation district staff have adequate training and technical support to make informed and consistent decisions.
- A frequent suggestion was to provide technical expertise to water resource officers and conservation districts at a basin level. Regionally-located teams with expertise in engineering, hydrology, climatology, surveying and groundwater modeling could support and train conservation district staff and water resource officers, keeping them up-to-date with technology, assisting with projects, and ensuring data collection is accurate and that license applications are reviewed properly.

PRELIMINARY CONCEPTS AND PRINCIPLES

WHAT WE SAID:

The proposed new regulatory approach incorporates new concepts of surface water management planning on a watershed basis, including sustained water retention capacity, with the goal of no-net-increase of water exported from a watershed, and protection of important wetlands. Land drainage may divert water out of a watershed, resulting in a net loss or reduction in water availability. While in the short term, these losses may seem minimal, they impact watershed resiliency and render them less able to adapt to changing weather patterns. Management to increase the retention time of water within the watershed can increase water storage capacity in times of drought and delay water movement during flooding events.

WHAT WE HEARD:

Most respondents were in favour of changes to the drainage licensing process. However, interpretation of the potential impact of the proposed changes varied widely. We heard very different opinions regarding the need for drainage.

Some commented on the importance of drainage for agricultural production and these respondents were generally concerned that implementation of the proposed changes would make drainage more difficult.

- Drainage is absolutely essential for the future of farming in Manitoba.
- The key issue is the need for better drainage systems. Upgrading and drainage maintenance is necessary to maximize crop production. All Manitobans should share responsibility for land drainage and development. The province should fund and develop drainage upgrades and solutions in collaboration with local municipalities.

- These changes will significantly increase the costs of land clearing and drainage and will have a detrimental effect on producers.
- There is concern that the licensing process and environmental reviews can be used to increase costs and delay or stop otherwise viable drainage projects.

Many other respondents were very concerned about the impact drainage has had on water quality and water management in the province. They were in favour of greater oversight and control over drainage.

- The history of water management in Manitoba has focused on draining water away as fast as possible. This was viewed as extremely short-sighted and harmful for the province as a whole.
- It was noted that drainage is motivated by the desire to increase agricultural production for economic profit. Historically, government policy has encouraged and subsidized drainage without acknowledging the costs to society. This includes flooding, erosion, decreased water quality, habitat loss, loss of biological diversity and alteration of hydrological processes.
- The province has a poor track record in supporting environmental regulation and this emboldens offenders. The social and environmental costs of drainage should be borne by the segment of the population that benefit the most – the farm.
- There is a need to re-focus on keeping water in the watersheds and managing water where it is, rather than draining it away. If drainage is necessary, then direct it to catchment sites nearby for use at a later time. Retained water can soak into the ground and hydrate our aquifers, crops, trees and flora. Encouraging the creation of small wetlands in every agricultural section would not only help with drought tolerance but also improve the management of agricultural waste.
- Some respondents were strongly opposed to allowing any additional drainage in the province, including tile drainage.
- We should not permit farming practices that alter the natural flow of water. Practices, such as the destruction of wetlands, clearing of trees and bush, and tile drainage and surface water drainage, should be halted.

Opinions differed on the impact of increasing registration and licence fees.

- Some believed that registration and licence fees should remain low to encourage landowners to participate in the process.
- Others believed that licence fees should be much higher to reflect the societal and environmental costs of drainage. These fees could be allocated to conservation districts to fund water retention projects and compensate for drainage impacts.
- There was concern that increasing licence and registration fees would discourage landowners from participating in the licensing process who may, then, resort to illegal drainage. Increased enforcement and fines would be required to deter these activities.

Many respondents commented on the need for adequate resources for administration and enforcement of the proposed licensing process. There was strong support for increasing fines for illegal drainage to send a message to landowners. However, others believed that this would have a negative effect.

- Many commented that without enforcement, the proposed process will fall far short of expected outcomes and that, historically, the drainage licensing process has been underfunded, understaffed and generally under-resourced. Many were skeptical that adequate resources would be made available for this process.
- A number of respondents were concerned that water resource officers did not have the adequate tools, resources and authority to do their jobs effectively. They believed that water resource officers should have additional authority to monitor for potential illegal drainage activities, additional rights to inspect private property, authority and tools to issue penalties in the field, and the authority to seize equipment.
- A number of respondents were very much in favour of significantly increasing fines to serve as a deterrent to illegal drainage, particularly where non-compliance is clearly intentional and habitual.
- A number of respondents suggested licensing fees and fines for illegal drainage be allocated to improve water management, rather than going into general government revenue.
- Others saw the use of fines as ineffective at improving landscape management. There was concern that the proposed changes would give water resource officers excessive authority to assess fines. Some felt that controls were necessary to ensure that water resource officers did not abuse their authority.
- It was also mentioned that farms held as small family corporations should not be subject to higher fines than individually-owned farms.

Many respondents commented on the need for consistent enforcement across the province and that the role of municipal governments in the licensing process needed clarification.

- A number of respondents commented on the need to ensure consistent enforcement of licensing regulations. If the province develops legislation, then the province is responsible to ensure that it is enforced consistently across the province.
- Drainage policies and approval processes need to be harmonized throughout the province. There are significant differences in municipal drainage policies and the turnover on municipal councils results in increased inconsistency. Some municipalities require that they have final approval of all drainage licenses, while other municipalities only deal with applications that affect municipal infrastructure. A consistent, province-wide approach is needed.
- Consistent enforcement standards are required. Design standards must be clearly mandated and the same standards and licensing requirements should be applied to municipalities, the province and private landowners.

- Municipalities expressed frustration with the current drainage licensing processes, particularly cumbersome surveying and engineering requirements, as well as inconsistent enforcement, communication, and sharing of information by local water resource officers.
- Some suggested the province should consult directly with those municipalities that have bylaws and licensing requirements in place, and that any additional provincial requirements should be minimal and easy to understand. Municipalities should have the authority to make the final licensing decisions.
- Prairie View Municipality and the Municipality of Stanley were identified as examples where municipalities work closely with water resource officers to review licence applications.

GRANDFATHERED WORKS – Projects Constructed Prior to 1988

WHAT WE SAID:

The new proposed regulation will grandfather works constructed prior to 1988. However, additional maintenance, alteration or construction will be subject to proposed regulation.

WHAT WE HEARD:

There were a few comments regarding grandfathered works, contradicting some comments supporting grandfathering historical work. Others suggested the licensing of all works, regardless of when they were built.

- All works have an impact on the watershed, so all works should require a license regardless of when they were built.
- We should focus resources only on new projects and not worry about licensing previously completed works.

DOWNSTREAM EFFECTS

WHAT WE SAID:

Manitoba is moving to address the challenge of balancing the needs of landowners seeking to improve drainage with the mitigation of downstream effects on their downstream neighbors. Some onus must be placed on downstream landowners to demonstrate the impacts of upstream drainage and requirements will be developed for downstream landowners to prove such impacts.

WHAT WE HEARD:

Opinions were divided on this issue. Some respondents were in favor of placing more onus on downstream landowners to demonstrate the impacts of upstream projects, as there have been instances where projects have been delayed or halted by a downstream landowner, without valid reason.

- Downstream landowners should not have the ability to stop a project without good reason. In the past, the requirement for downstream landowner approval has resulted in downstream landowners 'blackmailing' and demanding bribes from upstream landowners.

However, many others felt very strongly that downstream landowners need to be protected from the impacts of upstream drainage. They said the responsibility to ensure that all impact and concerns downstream have been mitigated should rest squarely on the project proponent.

- Many respondents strongly disagreed with placing onus on downstream residents to prove they are affected by upstream activities. They believed the responsibility should always be on the project proponent who will benefit from the project to prove that there are no downstream impacts. Any complaints from downstream residents require thorough investigations, with traditional knowledge considered equal to scientific knowledge.
- Some commented that this could place an undue burden on those wishing to contest a project and will increase the red tape requirements for downstream landowners.

A number of respondents suggested developing a dispute resolution process.

- A better approach would be to institute a sound, independent dispute resolution mechanism to resolve downstream concerns.
- Technical data must support licensing decisions. Downstream objections should require a preliminary review, based on currently available data. If data is inadequate to make a decision, the responsibility should be on the project proponent to provide this information and resubmit the application. If technical data show no downstream impact, the project should be licensed without delay.

It was pointed out that Manitoba is downstream from all neighbouring jurisdictions, so this change could impact our position when discussing transboundary water management issues with these neighbours.

- Increasing the onus on downstream stakeholders to prove impacts of upstream drainage activities could have serious ramifications on Manitoba's future transboundary water management discussions. Our province is downstream from all our neighbours. We cannot expect our upstream transboundary neighbours to respect our proactive

concerns about their water management activities when we place the burden of proof on downstream landowners and stakeholders within our own province. We need to develop a more balanced approach where the onus is on both proponents and complainants to demonstrate downstream impacts and resolve disputes.

PROPOSED CLASSES OF DRAINAGE AND WATER CONTROL WORKS

WHAT WE SAID:

Various types of drainage and water retention projects have been grouped into six similar “classes” or categories of projects. Regulatory standards are being developed for each class.

WHAT WE HEARD:

There was general support for developing different classes of drainage licences, although there was some concern that the system could be confusing.

- Producers need to know when they need a drainage licence, and which class of licence they need. There is widespread confusion in the agriculture community as to what work can be done on privately-owned lands, with or without a licence.
- This process requires clear, concise guidelines which leave no doubt in landowner’s minds on the correct process and the penalties for failing to follow that process.
- The province must place a priority on landowner education regarding the new licensing process.

CLASS 1: Urban and Rural Subdivisions (drainage, retention and water control works within a built-up community or subdivision)

WHAT WE HEARD:

- The only comment received was that Manitoba Infrastructure should not be responsible for approving Class 1 works.

CLASS 2a: Provincial Water Control Works (provincial drains built-up communities or subdivisions)

CLASS 2b: Municipal Water Control Works (municipal drains outside built-up communities or subdivisions)

WHAT WE HEARD:

A common concern was the lack of co-ordination between municipal and provincial governments regarding drainage infrastructure and the impact that this has on the landscape.

- The province should be required to apply for water rights licences and held to the same standard as other Manitobans.

- There is a need to develop a regulation requiring a minimum standard of infrastructure maintenance for municipal and provincial drains.
- The Municipal Act should be amended so that municipalities must maintain existing drainage systems, without the authority to prevent a landowner from properly and reasonably draining agricultural land.
- A complete inventory of all municipal and provincial drains should be completed and made accessible to all municipalities and landowners.
- There needs to be better communication between provincial government departments, municipal governments and conservation districts regarding issues including drainage licences, culvert sizing on provincial roads and highways, maintenance work and upgrades on provincial dams and waterways, and decommissioning of provincial dams.

Many respondents agreed that the current system of maintaining waterway infrastructure is ineffective. However, we heard differing ideas as to who should be responsible for infrastructure maintenance. A number of respondents suggested that conservation districts could manage waterway infrastructure. However, many conservation districts were wary to take on this responsibility unless guaranteed that adequate resources would be available (see also *What We Heard: Modernizing Manitoba's Conservation District Program*).

- Waterway infrastructure is very different across the province. It varies by watershed, so a one-size-fits-all approach does not work.
- Some thought that conservation districts should develop a drainage plan, municipalities should be responsible for construction and maintenance and the province should enforce regulation and provide funding to conservation districts and municipalities.
- Some suggested that municipalities should manage only municipal infrastructure, while the province and conservation districts should jointly manage provincial waterway infrastructure.
- Others believed that a single organization should manage all of the waterway infrastructure (e.g: crossings, weirs, culverts, erosion control structures and dams). Two or more agencies managing a drainage network was considered ineffective. There were many examples of lack of co-ordination resulting in inefficient use of resources and very ineffective waterway management.
- Those in support of conservation districts taking the lead in infrastructure waterway management noted that conservation districts have a better understanding of local priorities and issues on the landscape, so they should have the authority to make local decisions and decide local priorities regarding infrastructure maintenance.
- Some also noted that conservation districts are more efficient than the province at maintaining water infrastructure and control works.
- A number of respondents commented that if conservation districts are to play a larger role in the maintenance of waterway infrastructure, they would need substantially more resources, including technical information, LiDAR, trained personnel, equipment, engineering expertise and significantly larger budgets.

- A number of respondents were quite concerned that if conservation districts were responsible for infrastructure maintenance, much of the existing conservation district programming would suffer and possibly, disappear.

CLASS 3: Tile Drainage (subsurface or tile drains)

WHAT WE HEARD:

Some respondents were concerned that the regulatory requirements for tile drainage were too cumbersome and needed to be simplified.

- A new approach to drainage should allow spring runoff to flow properly and allow producers to gradually remove excess water, when and if necessary, to maximize agricultural production. Tile drainage is an important aspect of this approach.
- The current requirement for approval by all landowners within two miles of the tile drainage outlet is unnecessarily onerous and should be changed.
- The licensing process for tile drainage could become very confusing. In addition to the Class 3 licence, tile drainage projects often require additional surface drainage and land shaping. This will require a Class 4 license. In other instances, the landowner may create a water retention project associated with the tile drain, requiring a Class 5 license.

Many other respondents were concerned that tile drainage projects need more scrutiny.

- Tile drainage has many obvious benefits for agricultural producers. However, it will speed up the flow of water and nutrients from the landscape, exacerbating flooding problems and nutrient loading in Lake Winnipeg.
- A number of respondents believed that an associated water retention project should be mandatory for all tile drainage projects. This would ensure that there are no downstream impacts and that projects meet the no-net-loss of water retention capacity mandate and do not exacerbate nutrient loss into waterways.

A number of respondents commented on the need to co-ordinate provincial and municipal policies on tile drainage

- The current regulatory process for tile drainage is inhibiting the growth of the tile industry and preventing producers from improving the productivity of their land. This is the result of over-reach by local municipalities and government departments with competing mandates creating a cumbersome and onerous licensing approval process.
- Some municipalities have applied their own conditions on tile drainage licences. The provincial government needs to develop a policy on tile drainage so that there is a standardized framework for all tile drainage projects across the province.
- The province and municipalities need to co-operate and develop policies on the installation of tile drainage systems to ensure proper protection for downstream landowners.

CLASS 4: Surface Drains (surface drains on private lands)

WHAT WE HEARD:

There was significant concern that the mandatory standards required for all registered projects were too onerous for Class 4 projects. For landowners to meet mandatory standards, the province must ensure that sufficient watershed-based information is available for proponents to use in project applications. This would include developing clear standards and guidelines for project applicants and ensuring that adequately trained technical staff are available to review the applications.

- Concern that the line ‘no negative impact on natural drainage rates, patterns, capacity and outlets’ could be interpreted in a way that disallows all drainage, because drainage, by definition, will add water to the system.
- The requirement to demonstrate no negative impact on natural drainage rates, patterns, capacity and outlets is beyond the capacity of most project proponents. As a result, landowners may just opt to indicate that there are no negative impacts, without adequate documentation or analysis to support their application. Sustainable Development will need to provide enough staff, equipped with the technical expertise, to adequately assess applications within the proposed 14-day window.
- The proposed mandatory standards would require comprehensive, science-based assessments of drainage projects. These assessments would require accurate watershed-based information (particularly LiDAR) and analytical techniques to determine downstream impacts. The province needs to develop these tools and ensure that they are available for both project proponents and provincial staff tasked with reviewing the applications.

CLASS 5: Small Dams and other Water Retention Works (small water retention, detention and impoundment projects)

A number of respondents were concerned that the mandatory standards applied to Class 5 works would discourage landowners from developing water retention projects and restoring wetlands.

- More water retention is required in Manitoba. Any onerous conditions, applied under Class 5 small dams and other water retention works, may discourage landowners from retaining water. Legislation should make it easier for landowners to develop water-retention projects.
- Standards for water retention projects should not be more onerous than those in place for drainage projects
- There is concern that licensing conditions for Class 5 works could inhibit wetland restoration projects. Some would like to see the mandatory standards for Class 5 works eased for wetland restoration projects

CLASS 6: Projects Included on a Watershed Plan (watershed-based plans for drainage water retention, detention and impoundment prepared by a conservation district).

WHAT WE SAID:

Development of watershed-based plans for drainage and water retention will occur locally, in co-operation with watershed residents, stakeholders and government. Manitoba's existing watershed planning framework will provide an over-arching framework for decision-making around surface water.

WHAT WE HEARD:

There was strong support for the development of Class 6 watershed-based drainage and retention plans, but there were also a number of questions about the implementation of the plans in Manitoba.

- Many respondents supported the development of Class 6 watershed-based drainage and retention plans. They suggested that Class 6 plans should be incorporated into the integrated watershed management plans developed by conservation districts.
- It was suggested that the development of Class 6 plans be led by conservation districts and include participation from local stakeholders, including municipalities, the province (e.g.: departments of Infrastructure, Sustainable Development and Agriculture), landowners, First Nations, non-governmental organizations, land developers, urban communities and, when necessary, other jurisdictions, such as the United States and Saskatchewan.
- Most respondents suggested that Class 6 plans should include comprehensive drainage maps and technical information, as well as identifying specific drainage and water retention projects. Policies and local information should accompany the plans to help water resource officers make licensing decisions.
- The capacity of conservation districts to develop an adequately robust plan was identified as an issue. Additional resources and expertise would be needed. These would include high resolution LiDAR, a comprehensive infrastructure inventory, aerial imagery, digital mapping data, hydrological data and the technical expertise and tools to analyze all of this information.
- A number of respondents questioned who would be responsible for providing the resources needed to develop the plans. Many thought that, if the province was requiring the conservation districts to develop these plans, then the province should provide the conservation districts with the necessary resources to complete them.

REGISTRATION OF LOW IMPACT PROJECTS:

WHAT WE SAID:

If a project fits the requirement and mandatory standards of one of the six classes, it will be able to proceed through a simple registration process. Projects will be registered with Manitoba Sustainable Development for a specific period of time, after which the applicant may proceed with their project, unless otherwise contacted by the department. If a project does not fit one of the classes, or does not meet the regulatory standards for that class, it will need to proceed through a full licensing process.

WHAT WE HEARD:

Many participants supported the idea of simplifying the licensing process for low-impact projects to free up resources to focus on the larger, higher impact projects. However, a number of concerns were raised as to how this would be effectively implemented and many respondents were concerned that the system could be easily abused.

- Many respondents agreed that requests for licences for low flow projects take up a great deal of staff time. A simplified process for minor works would allow staff to focus on higher impact projects and get licences processed more quickly.
- Some respondents were concerned that provincial staff would not be able to keep up with this new process. They suggested that municipalities and conservation districts should be responsible for the registration of low-impact projects.
- Some expressed concern that the registration process could be easily abused, similar to the previous minor works exemption. Because of this, some suggested that the process should be reconsidered.
- A number of respondents expressed concern that the thresholds for what constitutes a low-impact project need to be clearly defined and enforced. Oversight and enforcement would be needed to ensure that these low-impact projects are actually constructed and maintained, as proposed in the application. This would increase the workload of water rights officers, defeating the purpose of the registration process.
- There was significant concern that the suggested 14-day timeline would be much too short to adequately review applications, evaluate the contents and make decisions regarding potential downstream impacts. This would be of particular concern in the springtime, when a rush of applications would allow for only a cursory review of many of the applications.
- Some were concerned that the official approval process is a passive one. Simply waiting 14 days, and then proceeding, was not considered an effective approval process.
- Of great concern was that the cumulative impacts of a potentially unlimited number of registered low-impact projects could result in significant environmental issues downstream.

PROTECTING WATERSHED CAPACITY AND RESILIENCY – A NO-NET-LOSS APPROACH

WHAT WE SAID:

A new approach to surface water management that allows for no-net-loss of water retention capacity will provide a mechanism for landowners proposing to drain to compensate with additional storage within the watershed. The new approach would continue to prohibit the drainage of Class 4 and 5 wetlands and would extend protection to Class 3 wetlands and other natural and constructed water holding areas, from surface and tile drains on private land. In those cases where drainage is justified, compensation will be required to ensure no net loss of water storage capacity.

WHAT WE HEARD:

There were many questions and concerns regarding the term ‘no-net-loss of water retention capacity’ and how and if this mandate could be effectively implemented.

- A number of respondents were concerned that the province does not currently have the tools and data necessary to implement or enforce this policy.
- Prior to this strategy being implemented, the province will need to determine the baseline water retention capacity that is to be maintained. Tools will also need to be developed to allow project proponents and enforcement officers to determine the impacts of specific projects on water retention capacity.

There were many questions as to how this would implemented:

- How will the holding capacity of the soil or various cover crops be considered?
- What timeframe would be considered?
- What time of the year would this apply?
- Would water holding capacity of forests and bush land be considered?
- Will this also apply to tile drainage?
- How would this be implemented in areas that are already significantly impacted by drainage?
- How will the baseline water retention capacity to be maintained be determined?
- Will provincial infrastructure and Crown lands be held to this standard?

A number of respondents noted concerns that this strategy could have negative impacts for producers who want to increase land productivity.

- The no-net-loss strategy would negate efficiencies that the registration of low-impact projects was supposed to provide, since constructed water retention projects and dams would be needed to implement no-net-loss and these would require a Class 5 license.
- This policy could trump drainage efforts. If no-net-loss is rigorously applied in flatter landscapes, it will require large water retention areas. This could result in the permanent destruction of good quality arable lands.
- Some landowners are buying swampland in anticipation of the implementation of this policy and plan to increase drainage into the swamps. Government needs to allow

producers time to make land and development decisions, so that this strategy will not have a devastating economic impact.

There were a number of concerns regarding the development of water retention projects as offsets to the effects of drainage. Of particular concern was where the offset projects would be built and by whom. A number of respondents believed that conservation districts could fill this role.

- Most respondents agreed that water retention should occur as close to drainage projects as possible. Many agreed with incorporating some flexibility into this process, but most suggested that retention projects should be within the same farm or sub-watershed, with flexibility to extend to the watershed as an upper limit.
- Many respondents were concerned about requiring the project proponents to determine the water retention offsets for their projects. This would require specialized knowledge that many proponents may not have, which could result in poorly planned projects that may result in future water management issues.
- Many respondents commented that conservation districts should co-ordinate offset projects, as they are familiar with the landscape and potential water storage areas. They also have more access to technical expertise.
- Some commented that drainage offset projects should be completed and inspected before the drainage project is implemented.
- A number of respondents felt very strongly that wetland conservation and restoration should be a priority for offset projects and that wetland consolidation schemes should not be considered as meeting the no-net-loss of water retention goal.
- There were a number of outstanding questions regarding the offset and compensation transaction process. It was suggested that the process be further developed and then brought back to the public for additional input.

Many respondents commented that the no-net-loss strategy should include incentives for landowners to store water on their land, where appropriate.

- Landowners who are unable to offset their drainage on their own land should provide funding for incentives to other landowners within the watershed to store water on their land. This program could be delivered by the conservation districts, possibly through GROW. However, GROW funding should not be misdirected to fund projects that are required through the licensing process.
- There is a need for focusing incentives to upstream landowners that retain water and nutrients on their land. A simple incentive program could be developed that paid farmers to store water by the acre-foot.

A number of respondents felt that no-net-loss of water retention could not adequately compensate for the decades of drainage and wetland loss on the landscape.

- While no-net-loss of water retention is a good idea, it is very vague, with no hint of a strategy to accomplish this goal. Most of the document also facilitates more drainage.
- In many areas, particularly flood-prone areas, the goal should be to increase water retention capacity. A minimum mitigation ratio of 3:1 should be required with higher mitigation ratios where site-specific considerations, such as geography, vegetation type, soils and landscape features, necessitate it.
- How will the no-net-loss strategy help resolve existing problems such as the flooding around Whitewater Lake? More effort needs to be focused on resolving these issues.
- Engineered solutions, such as retention ponds and dugouts, are better than nothing, but a more holistic approach, focused on improving the resiliency of the landscape, is needed. Considerations should include the impacts that clearing bush and converting pasture and native vegetation have on water retention capacity and the health of the landscape.
- A number of respondents also suggested that the strategy needs to include no-net-loss of wetlands in addition to a no-net-loss of water retention. The no-net-loss of water retention goal is not adequate to protect wetlands, as it could allow for drainage of wetlands, which could then be replaced by dugouts.
- The focus on water retention capacity does not take into account many of the ecological goods and services provided by wetlands, including nutrient and sediment removal, groundwater recharge and biological diversity. Wetlands need to be explicitly included as a priority in meeting the no-net-loss goal. This would be achieved by prohibiting all wetland drainage and recognizing wetland restoration as priorities when identifying offsets to meet no-net-loss objectives.
- There was a concern that consolidation of wetlands could be accepted through the low-impact project registration process as these projects may not exceed the no-net-loss of water retention criteria. However, they will have a negative impact on existing wetland structure and function and result in significant losses of ecological goods and services.

WETLANDS AND WATERSHEDS

WHAT WE SAID:

Wetlands are some of the most ecologically and functionally important habitats in the world. However, 40 to 75 per cent of wetlands in agricultural areas of Manitoba have been lost and we continue to lose approximately 0.5 per cent of the remaining wetlands. Scientific evidence has confirmed the significant impact wetland drainage is having on nutrient loading and downstream flows.

WHAT WE HEARD:

Many respondents supported protection of wetlands and were glad to see additional protection for Class 3 wetlands. Others felt this did not provide adequate protection to wetlands and a few were opposed to protecting Class 3 wetlands overall.

- A number of respondents commented on the need to protect remaining Class 3, 4 and 5 wetlands with strict regulation and improved enforcement. Policy clarification on the meaning of ‘no alteration or negative impacts to wetlands’ was requested. It was suggested that this specifically include any alteration of natural vegetation or water level fluctuation through activities such as drainage, dumping, pumping or filling.
- A few respondents requested protection for all remaining wetlands, including Class 1 and 2 wetlands. Others felt resources were better spent focusing on protecting Class 3, 4 and 5 wetlands.
- Some respondents felt that the protection of Class 3 wetlands would interfere with agricultural operations. They felt that if the province wants to preserve Class 3 wetlands on private land, landowners should receive compensation.
- Concerns were raised about the lack of direction provided for the management of terminal basins. It was considered critical for the province to ensure clear protocols are established and enforced to prevent additional drainage into terminal basins. It was considered vital that all remaining wetlands within these watersheds must be protected.

TRANSBOUNDARY CO-OPERATION:

WHAT WE SAID:

Managing water on a watershed basis will require co-operation and co-ordination with neighbouring jurisdictions. This new watershed-based approach will strengthen existing relationships and improve communication with upstream jurisdictions.

WHAT WE HEARD:

- Many respondents felt that transboundary water issues are the responsibility of the province, and conservation districts should be involved where appropriate.
- Some respondents commented on a need for firmer provincial policies for wetland protection. Strong provincial wetland protection policies will place Manitoba in a better position for transboundary negotiations with upstream jurisdictions.
- Some respondents were quite concerned that increasing the onus on downstream landowners to prove the impact of upstream drainage activities could have serious ramifications on Manitoba’s transboundary water management discussions. We cannot expect our upstream transboundary neighbours to respect our proactive concerns about their water management activities, when we place the burden of proof on downstream landowners within our own province.

*This report is available in alternate formats by contacting the Department's
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