

The Water Rights Licensing Process

Drainage and Water Use Licensing

May 9, 2023

Types of Authorizations

- ▶ When do I require an authorization?
 - ▶ Authorization is required for most water control works.
 - ▶ Maintenance of existing infrastructure such as brush removal or mowing do not require authorization.
 - ▶ A general rule of thumb: If you are moving dirt, authorization is required
 - ▶ There are two forms of authorizations under The Water Rights Act, licences and registration certificates.



Registration vs. Licensing

Registration Process - \$100

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

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

Licensing Process - \$500

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

- ✓ Focus is on higher risk projects
- ✓ Drainage of Class 3 wetlands
- ✓ Shorter wait times as lower risk projects are fast-tracked
- ✓ Strive to issue licences within a six week timeframe.
- ✓ The department strives to issue licence approval within 6 weeks of receipt of a completed application submission.



Exemptions

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

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

Costs of licensing a project - Why \$500!

There are many steps for a water control works licence to be issued, these include:

- ▶ Initial screening by Registrar
- ▶ preliminary assessment of the application by the designated Water Resource officer
- ▶ In-depth application review
- ▶ Project site visit
- ▶ Exhibit mapping
- ▶ Senior Water Resource Officer signoff
- ▶ Licence issuance
- ▶ Compliance check

Licence to Construct Water Control Works

Issued in accordance with the provisions
The Water Rights Act and regulations made thereunder.

Project:
File Number:
Licence No.:

Manitoba



Subject to the terms and conditions contained in this Licence, the Minister charged with administration for the Province of Manitoba authorizes:

in the Municipality of Roblin in the Province of Manitoba (the 'LICENSEE') to construct drainage works described as follows:

Construct small retention dam to improve local drainage conditions

And located on the following described lands:

SE 1/4 of Section 10, T10S, R10W

as more particularly located and shown on the attached Exhibit(s).

This Licence is issued upon the express condition that it shall be subject to the provisions of Regulations and all amendments thereto and, without limiting the generality of the aforesaid, constructed and operated in accordance with the terms and conditions described as follows:

- All works and specifications to be constructed in accordance with Dave Dobson, P. Eng. dated October 19, 2021.
- Additional terms and conditions include but are not limited to:
 - All WORKS conducted or outletting outside the legal landowners property holdings require express written permission and completed to the satisfaction of the respective landowner.
 - The LICENSEE shall hold and maintain all other regulatory approvals that may be required for the construction, operation, or maintenance of the WORKS provided by this Licence.
 - Notwithstanding anything preceding in this Licence, the LICENSEE must have legal rental, lease, or other agreement, of the lands on which the WORKS shall be placed.
 - The LICENSEE shall, within reasonable expectations, operate the WORKS in a manner that causes no damage, hardship, or inconvenience on private lands upstream and downstream of the WORKS with formal agreements that may exist between the LICENSEE and the landowner.
 - Construction of the WORKS are to include adequate and effective erosion and sediment control blankets, side slopes, sediment barriers, straw mulch, silt curtains, rock rip-rap, and disturbance of existing vegetation cover, seeding excavated area to ensure vegetation.
 - Manitoba reserves the right to request future modifications to this licence to correct the WORKS identified in the attached Exhibit(s) are in accordance with approved water control works.
- The LICENSEE does hereby remise, release and forever discharge Her Majesty the Queen of Manitoba, of and from all manner of action, claims and demands which may be made against the LICENSEE ever had, now has or may hereafter have, resulting from the construction, operation or maintenance of the WORKS.
- In the event that the rights of others are infringed upon and/or damage to the property of others is caused by the operation or maintenance of the WORKS and the rights herein granted, the LICENSEE shall be responsible and shall save harmless and fully indemnify Her Majesty the Queen in Right of Manitoba and against any liability to which Her Majesty may become liable by virtue of the construction, operation or maintenance of the WORKS.

Licence to Construct Drainage or Other Works

Manitoba
Conservation and Climate



EXHIBIT "A"

This Plan is an integral part of
Licence # [redacted] issued
under The Water Rights Act.

Licensed Water Control Works
In SE 1/4 of Section 10,
T10S, R10W

Legend

- Construct Earthen Dam (Retention)
- Existing Waterways



Date Prepared: December 14, 2021
Images: Copyright © 2011 Digital Globe

Scale: 0 0.01 0.02 0.03 0.04 Kilometers
Scale: 0 0.01 0.02 0.03 0.04 Miles

Landowner Approvals

Registration Process

Written approval is required from:

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

Licence Process

Written Approval is required from:

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

Class E: Water Control Works involved in Wetland Restoration or Enhancement

- ▶ Construction of water control works to restore a wetland that had previously been drained or increase the area of an existing wetland
- ▶ Constructed Works cannot be **higher than natural prairie level** and must retain less than 25 acre-feet of water.
- ▶ Proposed projects must include:
 - ▶ a pre-construction topographical survey of the proposed water control works that also shows the maximum flooding associated with the water control works;
 - ▶ A flood easement or other agreement if the water control works will flood land owned by other persons at full supply level
 - ▶ written approval from any owner of land immediately downstream of the project whose land would see a reduction in water flow due to the project, unless the applicant has obtained a written exemption from a water resource officer.

Class F: Small Dams - Registerable Projects

A small dam is registerable if:

- ▶ It is less than 2.5m in height
- ▶ The structure retains less than 25 acre-feet of water

In order to be registered, the application must include:

- ▶ A pre-construction topographical survey of the dam site
- ▶ Must include a pre-construction survey of the site that shows the maximum flooded area
- ▶ A design plan approved by a professional engineer or other certified agent, that:
 - ▶ Demonstrates the dam will accommodate a 1:100 year flood event, and
 - ▶ Shows the maximum flooded area
- ▶ Any associated landowner approvals including
 - ▶ Those who may be flooded by the project
 - ▶ Those immediately downstream who may see a reduction in water flow as a result of the dam
- ▶ A decommissioning plan



Small Dams - Licensable Projects

Small Dams must be licensed if:

- ▶ It is greater than, or equal to 2.5 m in height
- ▶ The structure retains between 25 and 40.5 acre-feet of water

In order to be licensed, the application must include:

- ▶ A pre-construction topographical survey of the dam site
- ▶ A location plan indicating dam site and drainage area
- ▶ Design plan approved and stamped by a professional engineer, that:
 - ▶ Demonstrates the dam will accommodate a 1:100 year flood event, and
 - ▶ Shows the maximum flooded area anticipated by the structure.
- ▶ Any associated landowner approvals including
 - ▶ Those who may be flooded by the project
 - ▶ Those immediately downstream who may see a reduction in water flow as a result of the dam
- ▶ A decommissioning plan



Class G: Small Dry Dams - Registerable Projects

A small dam is registerable if:

- ▶ It is less than 1 m in height AND retains less than 25 acre-feet of water on a temporary basis AND have an outlet that allows for a continuous flow of water.

In order to be registered, the application must include:

- ▶ A pre-construction topographical survey of the dam site that shows the maximum flooding associated with the dam
- ▶ If the dam will flood land owned by other persons at full supply level, a flood easement or other agreement from those owners consenting to the flooding
- ▶ Any associated landowner approvals including
 - ▶ Those who may be flooded by the project
 - ▶ Those immediately downstream who may see a reduction in water flow as a result of the dam
- ▶ A decommissioning plan



Small Dry Dams - Licensable Projects

Small Dry Dams must be licensed if:

- ▶ It is greater than, or equal to 1m in height AND retains between 25 and 40.5 acre-feet of water on a temporary basis AND has an outlet that allows for a continuous flow of water.

In order to be licensed, the application must include:

- ▶ A pre-construction topographical survey of the dam site
- ▶ A cross-sectional view of the control structure
- ▶ A location plan indicating dam site and drainage area
- ▶ design plan approved and stamped by a professional engineer, that:
 - ▶ Demonstrates the dam will accommodate a 1:100 year flood event, and
 - ▶ Shows the maximum flooded area anticipated by the structure.
 - ▶ The design flood frequency (hydrograph) and hydrology data
- ▶ Any associated landowner approvals including
 - ▶ Those who may be flooded by the project
 - ▶ Those immediately downstream who may see a reduction in water flow as a result of the dam
- ▶ A decommissioning plan

How to apply for projects

► Applications submitted through Water Licensing Portal (www.gov.mb.ca/drainage)

Conservation and Climate

Manitoba.ca > Conservation and Climate > Water > Water Rights

Get Started

Home Page
About
Parks
Water
Wildfire Service
Climate, Environment & Biodiversity
Research, Data and Maps
Waste Management
Permits, Licences & Approvals

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Drainage & Water Control

Manitoba has launched an amended Water Rights Regulation that reduces red tape for lower-risk, lower-impact drainage and water retention works, focusses regulatory review on higher-impact, higher-risk projects, and increases protection for Manitoba's wetlands. The shift toward streamlined drainage authorizations and no net loss of wetlands will support the sustainable management of water in Manitoba.

What are Water Control Works and Drainage?

How to Apply

Lower-risk/lower-impact drainage and water retention works can be registered as opposed to licensed. Projects submitted for registration must meet all requirements. Please refer to '[what is a registrable project](#)' for further information. Projects that cannot be registered may be eligible to receive authorization through a licence.

To apply for authorization to construct Water Control Works, an application including all required documentation must be completed. Remittance of the appropriate application fee is also required at the time of application. Submission of applications using the online [Water Licensing Portal](#) is strongly encouraged for faster service delivery times. If you are unable to submit the

Need More Info?

Drainage & Water Control
Box 8 - 200 Saulteaux Cres
Winnipeg MB R3J 3W3
1-800-214-6497
drainage@gov.mb.ca

Drainage and Water Control
Licensing Section - Primary
Contacts

Quick Links

Water Licensing Portal
Water Licensing Portal Map
Viewer
The Water Rights Act
Water Rights Regulation
Manitoba Agriculture (aerial
photos)
What is a Registrable Project?
Helpful Reminders
Lots/Parish Codes



Licencing Portal Overview

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

How to apply for a Water Control Works Licence

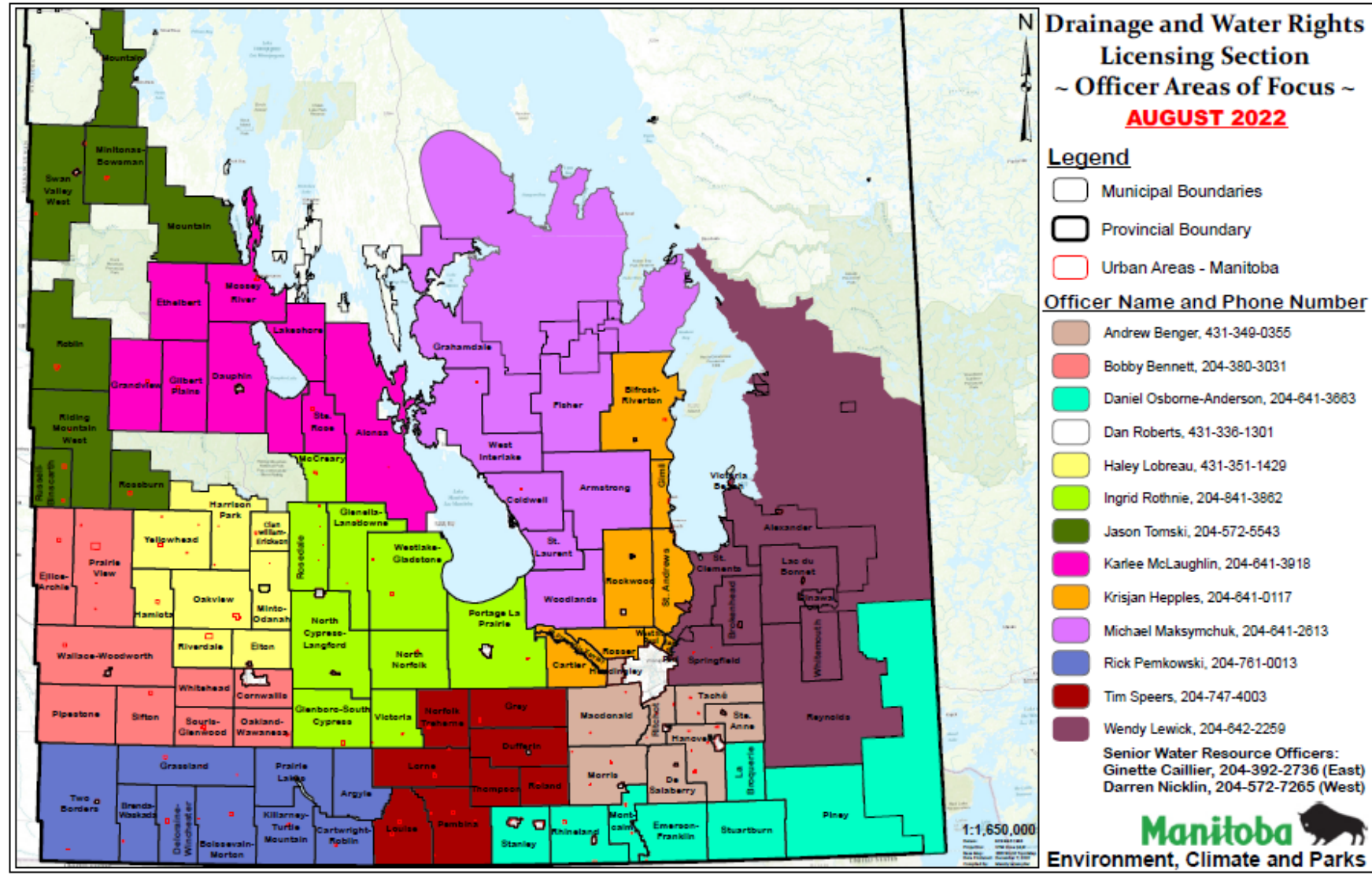
This video will walk you through how to apply for a new Water Control Works Licence using the Water Licensing Portal.



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

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

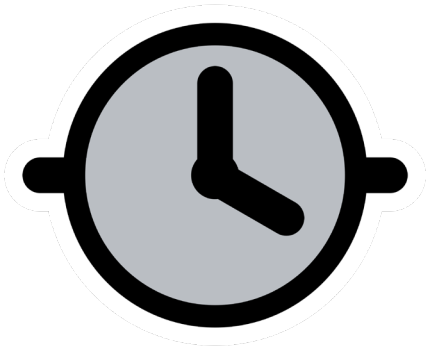
Drainage Contacts



► <https://www.gov.mb.ca/water-wastewater/management/conservation/conservation.html>

Timelines for receiving your authorization

- ▶ A certificate for registrable works will be issued within 14 days of a successful application submission.



- ▶ Licensed projects are generally considered to be higher risk than registrable works.
- ▶ Timelines vary depending on complexity of the project and the amount of a review required.
- ▶ Licences are processed in the order they are applied for so get your projects in as early as possible!
- ▶ We strive for a 6 week turn around time for COMPLETE applications.

Drainage Enforcement and Watershed Districts

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

Complaint Process

Request for Assistance in Resolving a Complaint

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

Or E-mailed to:

drainage@gov.mb.ca



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

LOCATION OF IMPACTED

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

DESCRIPTION OF IMPACTS

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

PERSON OR AUTHORITY RESPONSIBLE FOR IMPACT

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

IMPACT RESOLUTION

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

IMPACT RESOLUTION

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

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

Summary of results of contact _____

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

ADDITIONAL INFORMATION / ATTACHMENTS

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

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

Compliance

- ▶ Branch will often take steps to work achieve voluntary compliance.
- ▶ Can often be very effective without the use of enforcement tools.

Wetland Classification for Drainage

- ▶ What if a landowner asks you to re-assess a wetland after our department has already undertaken an assessment?
- ▶ Please refer the landowner back to our department process.
- ▶ Water Resource Officers (WRO) will undertake the wetland classification.
- ▶ If the proponent wishes to dispute the classification a Senior Water Resource Officer will review the WRO's classification.
- ▶ If after SWRO review the proponent is not satisfied they are able to engage the services of a third-party consultant to conduct a wetland classification on their behalf.



Water Use Licensing Section

- ▶ is responsible for issuing authorizations (e.g., permits, licences, etc.) under The Water Rights Act for the diversion of water for consumptive use purposes; and the construction, establishment, operation or maintenance of works for consumptive use purposes.

Exceptions

- ▶ There are exceptions to the prohibition on use and diversion of water. (s. 3(2))
- ▶ For instance, people who are using (not diverting) water for domestic purposes, where a person has lawful access to the water, and the use is less than 25,000 litres per day. (s. 3(2)(b))
- ▶ One other exception the Act makes is for a person (includes a corporation) who has a right under a provincial Act or a federal Act. (s. 3(2)(a))

Manitoba: A Prior Appropriation Province (Western Water Law)

- ▶ Water is a provincial Crown resource
- ▶ All use, except domestic, requires a licence (or authorization).
- ▶ The water must be put to beneficial use - without waste.
- First in time - First in right

Precedence of Licences

- ▶ FITFIR – First in time, First in Right

Section 8(1) of The Water Rights Act reads:

Precedence of Licenses

8(1) - Licences have precedence in relation to one another according to the date of the submission of application for each licence.

Priority Schedule

The order of priority of the purpose for which water may be used or diverted, in accordance with the Act is as follows:

- 1) Domestic Purpose (< 25,000 L/day)
- 2) Municipal Purposes
- 3) Agricultural Purposes (> 25,000 L/day)
- 4) Industrial Purposes
- 5) Irrigation Purposes (> 25,000 L/day)
- 6) Other Purposes

Licensing Process Outline

- 1) Project Proposal
- 2) Licence Application
- 3) Preliminary Investigation
- 4) Preliminary Works
- 5) Comprehensive Licence Investigations
- 6) Licence Creation & Issuance
- 7) Compliance, Monitoring & Enforcement

For further information

- ▶ Contact your local water resource officer
 - ▶ https://www.gov.mb.ca/sd/pubs/water/water_rights/officer_aof_contact.pdf
- ▶ Contact the Drainage and Water Rights Licensing Branch
 - ▶ Telephone at 204-945-3983
 - ▶ Email at drainage@gov.mb.ca
 - ▶ Email at wateruse@gov.mb.ca



Questions?