

Chapter 31 Water Security Agency—Regulating Drainage

1.0 MAIN POINTS

By December 2020, the Water Security Agency implemented two recommendations, partially implemented eight recommendations, and made limited progress on one recommendation made in our 2018 audit of its processes to regulate drainage of agricultural lands.

Since December 2017 (the timing of our original audit), the Agency finalized all but one key policy pertaining to regulating drainage and implemented a five-year timeframe for review of all drainage policies, including its Watershed Vulnerability Map. It also created key risk assessment documents (e.g., checklists and worksheets) for staff to fully document their assessment of a drainage application's risk, set internal deadlines for key steps in the request for assistance enforcement process, and improved reporting to senior management and the public.

The Agency still needs to:

- Develop policies around wetland retention and water quality
- Finalize and approve its *Request for Assistance Manual*, which sets how staff address and respond to request for assistance files
- Take enforcement action when the landowners do not resolve drainage complaints in a timely manner
- Document its consideration of the large-scale water impact of proposed drainage projects
- Actively search for unapproved drainage in high-risk regions of the province
- Report more details on enforcement action taken to senior management

Leaving unapproved drainage works in high-risk areas increases the risk of flooding of neighbouring farmland and the receiving water body, of water quality issues in the receiving water body, and of the loss of wetlands. Also, not taking timely, effective enforcement action against unapproved drainage works increases the risk of further damage to neighbouring farmland and downstream impacts.

2.0 INTRODUCTION

Under *The Water Security Agency Act*, the Water Security Agency is responsible for managing, administering, developing, controlling, and protecting water, watersheds and related land resources in the province.¹

¹ *The Water Security Agency Act*, s.5 (a).



Saskatchewan has the greatest area of watersheds with no natural outlets in Canada. This means agricultural drainage often moves water into local lakes, sloughs, or wetlands instead of a river system.

Drainage is any action taken, or intended, for the removal or lessening of the amount of water from land.² Unapproved projects, and particularly projects which do not include appropriate mitigation measures to address flooding, water quality, and wildlife habitat concerns – can result in drainage reducing wetlands. Wetlands improve water quality by removing sediments, nutrients (e.g., phosphates and nitrogen in the water runoff from farmland), and pathogens before the water reaches main water bodies (e.g. lakes).

2.1 Focus of Follow-Up Audit

This chapter describes our first follow-up audit of management's actions on the recommendations we made in 2018.

Our *2018 Report – Volume 1*, Chapter 12, concluded that for the 12-month period ended December 15, 2017, the Water Security Agency had, other than the matters reflected in our eleven recommendations, effective processes to regulate the drainage of water on agricultural lands in the geographic areas assigned to the Yorkton and Weyburn regional offices.

To conduct this audit engagement, we followed the standards for assurance engagements published in the *CPA Canada Handbook—Assurance* (CSAE 3001). To evaluate the Agency's progress toward meeting our recommendations, we used the relevant criteria from the original audit. The Agency agreed with the criteria in the original audit.

In this follow-up audit, we, interviewed Agency staff responsible for regulating drainage, examined relevant documents including the Agency's policies, and tested samples of drainage application approvals, and Request for Assistance files.

3.0 STATUS OF RECOMMENDATIONS

This section sets out each recommendation including the date on which the Standing Committee on Public Accounts agreed to the recommendation, the status of the recommendation at December 31, 2020 and the Water Security Agency's actions up to that date.

3.1 Finalization of Policies Occurring

We recommended the Water Security Agency approve finalized policies related to its regulation of drainage of water on agricultural land. (2018 Report – Volume 1, p. 186, Recommendation 1; Public Accounts Committee agreement September 15, 2019)

Status—Partially Implemented

² *The Water Security Agency Act*, s.2 (f).

As of December 2020, the Water Security Agency has approved seven of eight policies that were in draft form in 2017 (during the original audit). It established a policy review and approval process.

Since December 2017, the Agency developed a formal process for reviewing policies. It set a timeframe for how often policies need revisiting (i.e., five years from the date of approval). We found no policies exceeded the five-year approval date.

The Agency also implemented a new policy approval process where the Agency's newly created Policy Team approve policies. Previously, senior management committees approved policies.

The Agency has not approved and/or implemented a policy, *Request for Assistance Manual*. Not having consistent or clear direction when addressing unapproved drainage works (e.g., when to take enforcement action and what kind of action to take).

3.2 Watershed Risk Assessment and Documentation Improving

We recommended Water Security Agency staff consistently follow established processes to document risk assessments when reviewing applications for drainage works. (2018 Report – Volume 1, p. 192, Recommendation 6; Public Accounts Committee agreement September 15, 2019)

Status—Partially Implemented

We recommended the Water Security Agency require documentation of all aspects of watershed risk before approving applications for drainage works. (2018 Report – Volume 1, p. 189, Recommendation 2; Public Accounts Committee agreement September 15, 2019)

Status—Partially Implemented

The Agency created policies and worksheets to assist staff in considering and documenting risks associated with a drainage approval file, but have not consistently used these documents.

The Agency created a *Drainage Application – Project Overview Policy* to provide guidance to its staff on the process followed when reviewing a drainage approval file. Part of this policy discusses staff using the Agency's technical review checklist that sets out the process staff follow when reviewing drainage approval files.

We found the checklist and policy were clear and easily understandable. The checklist contains specific considerations staff must make when reviewing a drainage approval file (e.g., land location, reviewing old photos of the landscape to note the change in water storage on the property).³ While the checklist contains a brief consideration of the watershed vulnerability, it does not sufficiently document this assessment.

³ The audit team assessed the adequacy of this checklist during the 2017 audit.



In January 2020, the Water Security Agency created a worksheet (i.e., Risk Framework Worksheet) for staff to use when documenting their assessment of watershed vulnerability when reviewing applications for drainage approval.⁴

We noted the new worksheet appropriately identifies, in sufficient detail, and guides the documentation of all considerations staff must make when assessing applications for drainage approvals, other than consideration for the large-scale impact of the project (i.e., ending point of water flow).

Our testing of 20 drainage approval files found 12 instances where staff did not use the worksheet to document their assessment of risk to the watershed and management could not provide an explanation why. In all 20 drainage approval files tested, Agency staff documented the steps of their review on the Agency developed checklist.

Not keeping sufficient documentation decreases the ability to properly supervise whether staff carry out steps as expected, and the results of their work. Also, the Agency must consider all aspects of risk from both a local and entire watershed perspective, and document that consideration, before approving proposed drainage works. Lack of such consideration may result in inappropriate approvals resulting in more water going to a receiving body of water than it can handle.

3.3 Formal Process for Periodic Reassessment of Watersheds Developed

We recommended the Water Security Agency formalize a process to periodically reassess watersheds in the province for risk of flooding.

(2018 Report – Volume 1, p. 189, Recommendation 3; Public Accounts Committee agreement September 15, 2019)

Status—Implemented

Since 2017, the Water Security Agency developed a process for the periodic review of its Watershed Vulnerability Map for key circumstances that affect water flow and levels.

The Agency's Watershed Vulnerability Map identifies areas of the province at greatest risk of flooding, water quality issues and erosion. Drainage can further increase these risks.

Since our 2017 audit, the Agency finalized its *Drainage Risk Framework Policy*.⁵ The policy includes the Watershed Vulnerability Map. The next review of the policy will take place in December 2022.

Periodic updates of the Watershed Vulnerability Map help the Agency to identify the highest-risk areas and allocate its resources based on risk. In addition, the Watershed Vulnerability Map risk assessment process needs periodic review as circumstances (e.g., precipitation events) may change the risk rating of a particular area.

⁴ Watershed vulnerability refers to the risk of flooding as a result of drainage flowing to its endpoint, increased water quality issues as a result of drained agricultural lands, significant loss of wetlands, etc.

⁵ This was one of the seven policies the Agency approved since our 2017 audit.

3.4 Work Required on Water Quality and Wetland Retention Policies

We recommended the Water Security Agency develop policies on water quality and wetland requirements to use when assessing risks of drainage works. (2018 Report – Volume 1, p. 190, Recommendation 4; Public Accounts Committee agreement September 15, 2019)

Status—Not Implemented

As of December 2020, the Water Security Agency had not fully developed a policy on water quality or wetland retention requirements.

The Agency continues to have limited policies around wetland retention and water quality. Agency staff noted the Agency intends to incorporate water quality and wetland retention into a single *Impact Mitigation Policy*, which is in draft form as of December 2020.

Water quality is important to consider, as staff should not approve drainage works where water draining from agricultural land reduces water quality of the lake or river into which water is being drained (e.g., increasing nutrients).⁶

Wetland retention is also important because wetlands help improve water quality (e.g., remove sediments from water). In some cases, wetlands help replenish aquifers.⁷ Preserving wetlands is critical since the majority of rural Saskatchewan gets water from aquifers. Wetlands also provide habitat for waterfowl, insects and aquatic animals (e.g., frogs).

By not having approved and implemented policies on wetland quality and water retention, the Agency increases the risk that staff may not adequately consider these aspects and approve drainage works that may negatively impact water quality and reduce wetlands.

3.5 Published Timeframes in Process

We recommended the Water Security Agency publish expected timeframes to resolve requests for assistance on unapproved drainage works. (2018 Report – Volume 1, p. 191, Recommendation 5; Public Accounts Committee agreement September 15, 2019)

Status—Partially Implemented

The Water Security Agency established internal deadlines to resolve requests for assistance files on unapproved drainage works, but has not published those timeframes.⁸

Our review of the Agency's internal deadlines found them adequate. The Agency documented its internal timeframes on request for assistance resolution in its *Request for Assistance Policy*. **Figure 1** sets out the Agency's internal timeframes for each step of the request for assistance process.

⁶ Nutrients, such as phosphates and nitrogen, increase algal blooms causing undesirable consequences in lakes and rivers.

⁷ Aquifers are underground formations that can provide usable quantities of water.

⁸ Requests for assistance are files where someone calls the Agency to complain of a neighbour draining water onto their property. Request for Assistance is the name the Agency uses for a complaint received.



Figure 1—Water Security Agency Internal Timeframes for Request for Assistance Files

- **30 days:** for the person with the illegal drainage to voluntarily come into compliance with Agency legislative requirements (i.e., close works or get drainage works approved) once the Agency sends a Recommendation Letter that includes the deadline by which drainage works must be closed
- **2 weeks:** after the deadline in the Recommendation Letter, Agency staff must complete a compliance inspection to verify the illegal drainage has been appropriately resolved
- **1 month:** if the Agency notes the person with illegal drainage has still not followed Agency staff's recommendations, one month after the Recommendation Letter deadline, Agency staff shall issue an Order for drainage works closure
- **10 days:** after Agency staff issue the Order, the Order is registered against the person with the illegal drainage works' property title.^A

Source: Adapted from the Agency's Request for Assistance policy.

^A An Order registered against title will make the land unsellable until the illegal drainage works are approved by the Agency or closed.

Having internal deadlines for staff on request for assistance files helps ensure timely resolution of these files. Untimely resolution of requests for assistance increases the risk of further damage to neighbouring farmland and downstream.

To increase public confidence, it is important for the Agency to keep the party who requests assistance informed, and be transparent during the process as the Agency continues with its Agricultural Water Management Strategy.⁹

3.6 Request for Assistance Process Followed

We recommended the Water Security Agency consistently follow established processes when assessing requests for assistance on unapproved drainage works. (2018 Report – Volume 1, p. 193, Recommendation 7; Public Accounts Committee agreement September 15, 2019)

Status—Implemented

The Water Security Agency set and followed its established processes when assessing the validity of requests for assistance on unapproved drainage works.

When the Agency receives a request for assistance, staff complete a desktop review. This review involves looking at historical photos to current landscape photos to verify a change in standing water on the property in question. In addition, the Agency assigns staff to the file who may complete a physical inspection of the property. We found the process to review the validity of a request for assistance reasonable.

For all eight request for assistance files we tested, staff consistently followed established processes set out in policy for verifying validity (e.g., desktop review, interviews, onsite inspections performed).

Having an established process for Agency staff to determine the validity of a request for assistance helps ensure staff only spend their time working on resolving valid illegal drainage works.

⁹ The Agency's Agricultural Water Management Strategy encourages effective drainage while protecting the environment, and bringing unapproved drainage works into compliance with the law.

3.7 Escalation Process in Progress

We recommended Water Security Agency staff follow established processes to escalate identified actions on unapproved drainage works within a reasonable timeframe. (2018 Report – Volume 1, p. 194, Recommendation 8; Public Accounts Committee agreement September 15, 2019)

Status—Partially Implemented

As noted in **Section 3.5**, the Agency created a *Request for Assistance Policy*, providing staff with timeframes for when escalation of enforcement activities should occur. However, Agency staff were not escalating actions taken on identified non-compliance in accordance with policy.

In addition to its *Request for Assistance Policy*, the Agency drafted a *Request for Assistance Manual*. The Manual provides staff with a detailed description of the process to follow when addressing request for assistance files. We found the Manual comprehensive and easily understandable. As at December 2020, the Agency had not approved nor finalized its Manual.

Over one-half of the 16 request for assistance files we tested were missing at least one key step in the process. We found:

- Five instances where staff had not created a Compliance Plan (i.e., plan for how the Agency planned to obtain compliance by the person with illegal drainage works)
- One instance where staff had not issued a Recommendation Letter, with no valid explanation as to why. According to Agency policy, staff send a Recommendation Letter to the person with illegal drainage works before creating the Compliance Plan
- Eight instances where Agency staff had not escalated action on non-compliance with no rationale as to why

Not taking timely enforcement action on unapproved drainage works increases the risk of landowners not achieving compliance or not changing the culture (i.e., this is my land I can do what I want on it). In addition, further damage may occur to surrounding landowners and the receiving waterbody if resolution does not occur timely.

3.8 Unapproved Drainage Prioritization Plan Improving

We recommended the Water Security Agency develop a prioritization plan to identify and bring unapproved high-risk drainage works into compliance. (2018 Report – Volume 1, p. 195, Recommendation 9; Public Accounts Committee agreement September 15, 2019)

Status—Partially Implemented

The Agency created its *Drainage Compliance Planning and Assurance Policy* in November 2019. The Policy includes a section on prioritizing drainage projects based on associated



risk (e.g., immediate threat to public safety, severe threat to quality); however, as of December 2020, this policy has not been fully implemented.

At this time, the Agency continues to rely on other processes for staff to identify unapproved drainage works in the province (see **Figure 2**).

Figure 2—Water Security Agency Processes to Identify Unapproved Drainage Works

- Request for assistance process (see **Section 3.6**)
- Voluntary submission of drainage applications and subsequent analysis of the wetlands on the applicant's land
- Other branches at the Agency or other government organizations advising it of unapproved drainage works during the course of their regulatory processes (e.g. the Ministry of Agriculture's crown land sale reviews, the Ministry of Government Relation's subdivision review requests)
- Agency staff finding unapproved drainage while working in the field (e.g., finding drainage in a farmers field while driving out to an inspection for a request for assistance file)

Source: Adapted from the Agency's records.

As of December 2020, the Agency does not use surveillance (i.e., drones) as a means of detecting unapproved drainage works. It does not have a plan to address unapproved drainage in high or severe risk areas of the Province (based on its Watershed Vulnerability Map).

Leaving unapproved drainage works in high-risk areas increases the risk of flooding of neighboring farmland and the receiving water body, water quality issues in receiving water body, and loss of wetlands.

3.9 Reporting to Senior Management Improving

We recommended the Water Security Agency periodically report to senior management on actions taken to address non-compliance of unapproved drainage works. (2018 Report – Volume 1, p. 195, Recommendation 10; Public Accounts Committee agreement September 15, 2019)

Status—Partially Implemented

During 2020, the Water Security Agency improved reporting to senior management but continues to miss key information about the Agency's activities undertaken to address non-compliance of unapproved drainage works.

The Regulatory Division provides weekly reporting to senior management during its Regulatory Division meetings. Weekly reports include the following topics:

- Update on meetings held with drainage networks, watershed associations
- Issues experienced by the Branch (e.g., challenging files)
- Policy updates and policy reviews underway

- Progress activities (i.e., request for assistance received, number of request for assistance files where the landowner obtained drainage approval, number of orders issued, enforcement action taken) broken down by current period and year-to-date.
- Priority files (i.e., which request for assistance files staff are focusing attention on) including updates of where each request for assistance file is
- Drainage approvals broken out by Northern and Southern Region

The Agency's reporting to senior management provides a section for the Agency to report on enforcement action taken. As of December 2020, the Agency reported no files where enforcement action was taken. Rather, the Agency has been working to address several complex drainage approval files using priority drainage networks, through which drainage approvals may be achieved with the assistance of a Qualified Person (i.e., someone with the technical expertise, such as an engineer, to assist with the application process).¹⁰

However, reports do not indicate whether the Branch is meeting targets set out in its annual work plan, nor include analysis of enforcement activities related to high-risk basins or the number of unapproved drainage works brought to compliance in high-risk basins by location (e.g., through closure or approval). Instead, the Agency's strategic internal reporting includes quarterly Executive updates about drainage approval progress (activities).

Improved reporting would help senior management determine if its strategies and staff's actions were focused in priority areas as it expects.

3.10 Public Reporting Improving

We recommended the Water Security Agency report to the public on its regulation of the drainage of water on agricultural lands. (2018 Report – Volume 1, p. 196, Recommendation 11; Public Accounts Committee agreement September 15, 2019)

Status—Partially Implemented

While the Water Security Agency has improved its reporting to the public, reporting does not include sufficient information about key activities to regulate drainage of water on agricultural lands.

Each year, the Agency sets goals in its Annual Plan and reports against these goals in its Annual Report as at March 31 each year.

We found the Agency's 2019-20 Annual Report included:

- The number of request for assistance files resulting in drainage works closure
- The number of quarter sections that the Agency approved drainage works
- The total number of quarter sections meeting the Agency's regulatory requirements

¹⁰ A priority drainage network is a number of landowners who own property in the regions of the province that the Agency classifies as high or severe-risk, obtaining one approval to drain agricultural lands (i.e., a drainage network).



In addition to its Annual Report, the Agency issues public news releases informing the public of important information. For example, in May 2019, the Agency issued a public news release stating the Agency had approved a record number of drainage works. This was the result of one large drainage network approval file the Agency made in 2018–19 (e.g., Vipond Creek Network where one single approval file approved more than 17,000 acres).¹¹

The Agency does not publish information about the total number of requests for assistance received by the Agency during the year nor information on enforcement action taken—key regulatory activities.

Improved reporting to the public would help landowners and the public understand the importance of the Agricultural Water Management Strategy and the Agency's process in implementing its Strategy.

¹¹ www.wsask.ca/About-WSA/News-Releases/2019/May/Record-Number-Of-Saskatchewan-Producers-Approved-For-Organized-And-Sustainable-Agricultural-Water-Management/ (11 March 2021).