

## Chapter 24

# Water Security Agency—Regulating Drainage

### 1.0 MAIN POINTS

By April 2024, the Water Security Agency implemented four recommendations and partially implemented five recommendations we first made in our 2018 audit of its processes to regulate drainage of water on agricultural lands.

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

Since December 2020, the Agency appropriately reported to senior management on actions taken to address non-compliance of unapproved drainage works. It approved policies related to its regulation of drainage of water on agricultural land. It also published expected timeframes to resolve requests for assistance (i.e., complaints) from the public on unapproved drainage works.

The Agency still needs to:

- Finalize its policy on water quality and wetland retention requirements, so Agency staff can use this guidance and consider potential impacts when reviewing and approving applications for drainage works.

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

- Use its wetland inventory and its *Drainage Compliance Planning and Assurance Policy* to identify and take action to bring unapproved high-risk drainage works into compliance.

In 2015, when the Agency began working to get landowners to comply with its drainage requirements, it estimated 1.6 million to 2.4 million acres of agricultural land had unapproved drainage works.<sup>1</sup> At April 2024, the Agency was still working to estimate the amount of unapproved drainage works in the province using its wetland inventory.

- Report to the public on its regulation of the drainage of water on agricultural lands.

For example, the Agency should publicly report on the number of requests for assistance it received, and information on enforcement actions taken on unapproved drainage. Not taking timely, effective enforcement action against unapproved drainage works increases the risk of further damage to neighbouring farmland and to environments downstream.

<sup>1</sup> 2018 Report – Volume 1, Chapter 12, p. 181.



## 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.<sup>2</sup>

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.<sup>3</sup>

Drainage is any action taken, or intended, for the removal or lessening of the amount of water from land (e.g., digging a trench).<sup>4</sup> Unapproved drainage works, and particularly works that do not include appropriate mitigation measures to address flooding, water quality, and wildlife habitat concerns, can affect and reduce wetlands. Wetlands improve water quality by removing sediments, excess nutrients (e.g., phosphates and nitrogen in water runoff from farmland), and pathogens before the water reaches main water bodies (e.g., lakes).<sup>5</sup>

In 2015, the Agency began implementing a new Agricultural Water Management Strategy.<sup>6</sup>

### 2.1 Focus of Follow-Up Audit

This chapter describes our second follow-up audit of management's actions on the nine outstanding recommendations we first made in 2018.<sup>7</sup>

In 2018, we assessed the Water Security Agency's processes to regulate drainage. We concluded for the 12-month period ended December 15, 2017, the Agency had, other than the matters reflected in our 11 recommendations, effective processes to regulate drainage of water on agricultural lands in the geographic areas assigned to the Agency's Yorkton and Weyburn regional offices. By December 2020, the Agency implemented two recommendations.<sup>8</sup>

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. Agency management agreed with the criteria in the original audit.

To carry out our 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 (i.e., public complaints). We used an external consultant with expertise in the area to help us identify good practice and to assess the Agency's policies.

<sup>2</sup> *The Water Security Agency Act*, s.5 (a).

<sup>3</sup> Water Security Agency, *25 Year Saskatchewan Security Plan*, p. 29.

<sup>4</sup> *The Water Security Agency Act*, s.2 (f).

<sup>5</sup> Excess nutrients, such as phosphates and nitrogen from fertilizers, increase algal blooms causing undesired consequences in lakes and rivers.

<sup>6</sup> The Water Security Agency's Agricultural Water Management Strategy encourages effective drainage while protecting the environment, and bringing unapproved drainage works into compliance with the law.

<sup>7</sup> *2018 Report – Volume 1, Chapter 12*, pp. 179–196.

<sup>8</sup> *2021 Report – Volume 1, Chapter 31*, pp. 285–294.

## 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 April 15, 2024, and the Water Security Agency's actions up to that date.

### 3.1 Drainage Policies Finalized

***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**—Implemented

The Water Security Agency finalized and approved its last remaining policy related to regulating drainage of water on agricultural land.

By December 2020, the Agency approved seven of eight policies previously in draft in 2017 (during the original audit). Since December 2020, the Agency approved the remaining policy. In December 2023, the Agency approved its *Agricultural Drainage Compliance Procedures* (i.e., Request for Assistance Manual). This Manual provides staff with a detailed description of the process to follow when addressing request for assistance files (i.e., public complaints).

The Agency's new policy related to water quality and wetland retention was not one of the original eight policies and is discussed separately in **Section 3.2**.

Providing consistent and clear direction allows Agency staff to take similar actions to enforce compliance when regulating drainage of water on agricultural land.

### 3.2 Watershed Risk Assessment and Documentation Not Finalized

***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**—Partially Implemented

***We recommended the Water Security Agency 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

At April 2024, the Water Security Agency was drafting, but had not finalized, a policy on water quality and wetland retention requirements. Without an approved policy that includes all aspects of watershed risks, staff cannot effectively use it when reviewing or approving applications for drainage works.<sup>9</sup>

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

Wetland retention is important because wetlands help to improve water quality (e.g., remove sediments from water). In some cases, wetlands help to replenish aquifers.<sup>10</sup> Preserving wetlands is critical since the majority of rural Saskatchewan obtains water from aquifers. Wetlands also provide habitat for waterfowl, insects, and aquatic animals (e.g., frogs).

The Agency was drafting an *Agricultural Water Stewardship Policy* to help staff assess water quality and wetland retention requirements in future drainage works applications. At March 2024, the Agency started piloting certain aspects of the Policy with individual landowners as part of its Policy development. The Agency told us it expects to complete these pilots in August 2024, and then finalize the Policy after analyzing the pilots' results.

In February 2021, the Agency updated its Risk Framework Worksheet (worksheet) for staff to use when documenting their assessment of watershed vulnerability when reviewing applications to approve drainage works.<sup>11</sup> The updated worksheet does not require documenting information about assessing water quality or wetland retention requirements.

Our testing of nine drainage-approval files found staff used this worksheet to assess risks of watershed vulnerability, but did not include information assessing water quality or wetland retention. We found staff documented its assessment of the following risks:

- Flooding (e.g., movement of water across landscape, where draining water will flow)
- Habitat loss
- Land erosion

The Agency must consider all aspects of risk from both a local and an entire watershed perspective, and document those considerations, before approving proposed drainage works.

<sup>9</sup> A watershed is a geographic area defined by elevated topographic divides that has a common outlet for its surface runoff.

<sup>10</sup> Aquifers are underground formations that can provide usable water.

<sup>11</sup> Watershed vulnerability refers to the risk of flooding because of drainage flowing to its endpoint, increased water quality issues because of drained agricultural lands, significant loss of wetlands, etc.

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

### 3.3 Published Timeframes and Escalation Process Followed

***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**—Implemented

***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**—Implemented

The Water Security Agency published expected timeframes to resolve requests for assistance on unapproved drainage works.<sup>12</sup> Staff followed its processes for when escalation of enforcement activities should occur on unapproved drainage works.

The Agency's website includes its expected timeframes for responding to public complaints about unapproved drainage works.<sup>13</sup> For example, on simple requests, it expects to provide a decision to the landowner and the complainant within six months (12 months for complex requests). We found these timeframes to be reasonable.

We found for three requests tested, the Agency responded and provided decisions within the published timeframes. The Agency also communicated the appropriate information and actions to landowners to have unapproved drainage works come into compliance. For example, the Agency asked a landowner to build up the ground to prevent water from flowing downstream.

As described in **Section 3.1**, the Agency approved its *Agricultural Drainage Compliance Procedures* in December 2023. This included minor changes to the Agency's processes, including a complainant paying a fee when submitting their complaint, which the Agency refunds if the issue under investigation relates to impacts caused by drainage works. The Agency expects the fee to reduce the number of irrelevant complaints with no basis.

To increase public confidence, it is important for the Agency to keep the party who requests assistance informed. In addition, further damage may occur to surrounding owners' land and the receiving water body if resolution does not occur in a reasonable time.

Taking timely enforcement action on unapproved drainage works helps to increase landowners' compliance to reduce adverse effects of unregulated drainage.

<sup>12</sup> Requests for assistance are files where someone notifies the Water Security Agency about water draining onto their property from neighbouring land (i.e., complaints).

<sup>13</sup> [www.wsask.ca/wp-content/uploads/2024/01/RFA-Process-Guide-2024.pdf](http://www.wsask.ca/wp-content/uploads/2024/01/RFA-Process-Guide-2024.pdf) (30 January 2024).



### 3.4 Action Needed to Bring Unapproved Drainage Works Into Compliance

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***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 Water Security Agency approved an update to its *Drainage Compliance Planning and Assurance Policy* (Assurance Policy) in December 2023 setting out how to respond when it identifies unapproved drainage works based on risk. However, the Agency was not yet using its wetland inventory and its Assurance Policy together to identify and take action to bring unapproved high-risk drainage works into compliance.

Unapproved drainage works occur when landowners change waterflow without obtaining Agency approval. This can increase the risk of flooding neighbouring farmland and the receiving water body, as well as increases the risk of water quality issues in the receiving water body, and loss of wetlands.

The Assurance Policy includes a section on prioritizing drainage works based on associated risk (e.g., immediate threat to public infrastructure, residences, or severe environmental impacts). This considers the degree of landowner cooperation (e.g., willingness to apply for drainage application). The Assurance Policy includes the level of staff who determine the Agency's response based on the prioritization ranking.

As of April 2024, the Agency had not yet used its wetland inventory to identify unapproved drainage works and not used its Assurance Policy to assess risks of these drainage works in informing its actions, such as contacting landowners to request they submit a drainage application for Agency approval.

The Agency developed its wetland inventory using imaging data.<sup>14</sup> Using this information, it identified wetlands, including existing and drained wetlands, and approved and unapproved drainage works. At April 2024, the Agency was still working to estimate the amount of unapproved drainage works in the province using its wetland inventory.

The Agency continues to rely on other sources for staff to identify unapproved drainage works such as from public complaints, voluntary submission of drainage applications from landowners, and Agency staff finding unapproved drainage while working on-site.

We tested four items the Agency became aware of from these other sources and found the Agency followed its Assurance Policy to bring these unapproved high-risk drainage works into compliance (e.g., used risk assessment to determine Agency response). However, for two of these items, the Agency did not document how it became aware of the unapproved drainage works. Documenting this would help the Agency consider effective sources to identify unapproved drainage works in the future.

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<sup>14</sup> At April 2024, the Water Security Agency assessed 47 million acres of Saskatchewan's agricultural lands, mostly in southeast Saskatchewan. Within this area, it identified 4.6 million wetland acres. [www.wsask.ca/wetlands-agricultural-water-management-in-saskatchewan](http://www.wsask.ca/wetlands-agricultural-water-management-in-saskatchewan) (10 April 2024).

The Agency provided \$5 million to the Saskatchewan Conservation and Development Association for 2019 to 2024 for the Association to help other water conservation groups prepare drainage applications for previously unapproved drainage works.<sup>15</sup> In 2023, the Association helped bring two drainage works into compliance and helped six water conservation groups start applying for other drainage works not yet approved.

Leaving unapproved drainage works in high-risk areas increases the risk of affecting farmland and wetlands, and water quality.

### 3.5 Public Reports 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

The Water Security Agency reports some information to the public; however, reporting does not include sufficient information about key activities to regulate the drainage of water on agricultural lands.

In October 2023, the Agency drafted 14 indicators to help it assess its *Agricultural Water Stewardship Policy*. This includes how often the Agency plans to report on these indicators. For example, the Agency plans to report annually on the number of quarter sections with unapproved drainage works.

We found at April 2024, the Agency had not yet finalized this Policy and indicators, nor publicly reported on its 14 indicators, the number of requests for assistance it received, or information on enforcement actions taken on unapproved drainage works.

Improved reporting to the public would help landowners and the public understand the Agency's performance when regulating drainage.

### 3.6 Reports Provided to Senior Management

***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**—Implemented

The Water Security Agency appropriately reported to senior management on actions taken to address non-compliance of unapproved drainage works.

In 2023, the Agency began reporting to senior management twice a year on actions taken to address non-compliance.

<sup>15</sup> [www.saskatchewan.ca/government/news-and-media/2019/march/13/scda-to-support-producers](http://www.saskatchewan.ca/government/news-and-media/2019/march/13/scda-to-support-producers) (11 April 2024).



We tested two reports to senior management and found the Agency provided information on steps taken to address non-compliance (e.g., landowners with unapproved drainage works identified through complaints). The reports also included the number of approved and unapproved drainage works identified, timeframes to address requests for assistance, number of active requests for assistance, and the number of orders issued to address non-compliance.

For example, the Agency issued about 100 orders related to unapproved agricultural drainage works since 2015 (e.g., landowner applied and the Agency either approved drainage or ordered the landowner to demolish drainage works). Of these orders, the Agency brought about 90% of drainage works into compliance. All orders were a result of the request for assistance process. The Agency issued two orders in 2022–23 and brought one of these unapproved drainage works into compliance.

Appropriate reporting helps senior management assess the effectiveness of enforcement actions taken and determine whether staff focus their actions in priority areas.