

Proposed Changes to Drainage Enforcement and Licensing

- Under *The Water Rights Act*, licenses are required for all forms of drainage regardless of the size or extent of the impact.
- In 2008, after receiving complaints from about the Province's management of the licensing process, the Manitoba Ombudsman released a report on Manitoba Water Stewardship's licensing and enforcement practices.
- The report found that although requirements for licensing and enforcement had been in place since *The Water Rights Act* was implemented in 1987, the department has lacked the resources needed to fulfill its mandate since at least 1997.
- Out of a concern for the volume of unlicensed drainage that occurs in Manitoba, the Ombudsman recommended that the Province develop a process to license all drainage works as required by the legislation.
- In response to this recommendation, the Province began requiring licenses for all works including routine maintenance and municipalities quickly realized that the Province was issuing license for even simple same-for-same culvert replacements.
- In response, the AMM membership passed resolutions at our last Convention asking that the Province establish standards for responding to water rights license applications and eliminate the license requirement for same-for-same culvert replacements.

- At the end of January, Provincial staff met with stakeholders including the AMM, MCDA and KAP to discuss a policy for minor works licensing.
- The Province is proposing an expedited process with a turnaround time of two weeks for minor works licenses.
- The policy will include an exemption regulation to ensure that the most basic works do not require licenses, for example urban drainage works that do not affect land outside the municipality, new approaches and same-for-same culvert replacements.
- This policy was discussed in-depth at our last Board meeting because of a few key concerns.
- First, the Province's proposal includes a municipal approval process and the Board discussed what form this should take.
- We ultimately recommended that the decision should be left to each individual municipality to designate the appropriate person. We also recommended that municipalities should have the option of not participating in the process and leaving approvals entirely up to the Province.
- Another significant concern is the number of Provincial staff that will be required to implement this policy. It seems the department is underestimating the number of applications they will receive and there is some question as to whether a two-week turnaround is feasible.

- The Province has committed to hiring additional staff to meet this requirement, however it is hard to predict just how many licensing officers will be required.
- For this reason, the AMM suggested reviewing the minor works licensing process in early 2010 to determine if it is meeting its intended goals.