

RM's and Drainage Approvals

What to do if drainage into an RM ditch is causing a problem

Unapproved Works

If a landowner has existing or new drainage works which drain onto any RM administered lands (including undeveloped road allowances) above the point of adequate outlet, then the RM can file a Request For Assistance with WSA. WSA will confirm the presence of drainage works and whether the works have an approval. If unapproved drainage works are present, the landowner will be required by WSA to either obtain approval or close the drainage works. To get approval the landowner will need to obtain land control from the RM and the RM can, at that point, ensure that appropriate mitigation steps are taken to ensure no further damage will be caused.

Approved Works

If there is approved drainage into an RM ditch and damage is being caused, the RM should notify WSA, either by completing a Request for Assistance or sending a letter, referencing section 83.01 of *The Water Security Agency Act*, and ask WSA to take action to modify the requirements of the approval to mitigate the damage being caused.

When is an RM involved in a drainage application?

When can an RM modify a culvert?

Drainage during an emergency

For more information, please visit wsask.ca or call 306-694-3900.



RMs and Drainage

The Water Security Agency's (WSA) Agricultural Water Management Strategy requires all drainage works to be approved. A drainage approval ensures that any impacts from the drainage works are reduced and that landowners can operate their drainage works for the term of the drainage approval. As well, if the landowner sells the land and the approval is registered on title, the drainage approval will run with the land for the term of the approval. Rural Municipalities (RMs) administer roads on the rural landscape and, as a result, often interact with drainage works.

The primary purpose of the grid road network is transportation. Where road networks meet natural water bodies and water courses, the road network should not impede the flow or impact the water levels in the water body.

What is drainage?

Drainage is any action taken, or intended, for the removal or lessening of the amount of water from land, and includes the deepening, straightening, widening or diversion of the course of a stream, creek or watercourse, as well as the construction of dykes. When drainage works are located within RM controlled lands, such as a road allowance, the RM is responsible for those drainage works, including any approval requirements, or liability associated with those works.

An RM does not have to apply for a drainage approval for construction of ditches which are part of a road network, provided the ditches are not conveying water from private drains. For example, if a road is being built up and the material is coming from a deepened ditch, the RM does not need an approval for that work, unless the ditch is going to carry water contributed by a private drainage ditch.

Modifying a culvert

An RM may install a new culvert, replace an old culvert, upsize or lower a culvert without a drainage approval if the purpose is only to facilitate the natural flow of water. Modifications to culverts, while not needing a drainage approval, may require other types of WSA approvals such as an Aquatic Habitat Protection Permit. (See wsask.ca/Water-Programs/Aquatic-Habitat-Protection).

If an RM modifies a culvert (e.g. lowering) or roadway in such a way as to alter the spill elevation of a wetland or divert the natural flow of water then a drainage approval is required.

Providing land control

RMs administer road allowances on behalf of the Saskatchewan Ministry of Highways which administers them on behalf of the Government of Saskatchewan. Landowners seeking approval for drainage works may ask the RM to agree to give them land control for drainage across a road allowance. This is the primary way in which an RM may be made aware of a drainage application. However, WSA may contact RMs about individual drainage projects if there are special circumstances which require RM input or, rarely, project applicants may ask to advertise an application in the RM office. When deciding whether or not to grant land control for drainage projects, RMs should primarily consider whether the project will impact RM roads or infrastructure and whether there is a public safety issue.

An RM may grant land control in one of two ways:

1. Become a joint applicant to the drainage project: The RM may sign the application and become one of the applicants. By signing the application the RM is consenting to the project and granting land control for the term of the approval.
2. Provide written land control: The RM may pass a resolution granting land control for the project and provide a letter to the applicant documenting the resolution. The letter and resolution should refer to the WSA Drainage Number and include a stamped copy of the overall project plan. The resolution cannot contain conditions for the land control. The RM may have a side letter with the party to whom it is granting land control, but the resolution granting the land control cannot make WSA responsible for determining whether the condition has been met. The WSA Regional Office can supply examples of acceptable resolutions.

Drainage during emergency situations

During emergency situations an RM may have to respond quickly to avoid damages to RM lands or infrastructure. Drainage works constructed pursuant to *The Emergency Planning Act* in case of disaster or emergency, do not require a drainage approval on the condition that:

- the drainage works are rendered inoperable immediately after the disaster or emergency ceases to exist; and
- within one year after the disaster or emergency ceases to exist, the drainage works either have a drainage approval issued for them, or are permanently decommissioned to the satisfaction of the Water Security Agency.

Organized drainage

RMs may also be asked to provide land control for organized drainage works associated with Conservation and Development Associations or Watershed Associations. In these cases, RMs should ensure that the obligations for maintenance of any drainage works are documented in writing.

Should the RM be a joint applicant for drainage approval?

In some instances, a proposal or project would require the RM to be a joint applicant because its infrastructure would be actively used in the project. This would be the case if a project proponent plans to use the RM road network and infrastructure as part of a flow control system. This is already happening in some areas and the flow reductions are effective in being able to manage flood situations. When a project of this kind is being proposed, the RM should consider the impacts to the road network, public safety, duration of water against the road base and the infrastructure necessary for flow control. Another consideration would be who is going to operate the infrastructure if gates will be used.

What should an RM consider when deciding whether to grant land control?

- Will RM infrastructure be impacted?
- Does the project pose a public safety risk?
- Are mitigation measures (erosion control, flow control) sufficient to protect RM infrastructure?
- Should the RM provide written permission or be a joint applicant?
- Who will be responsible for maintenance of the drainage works?
- Are any councillors in a position of conflict of interest?
- If culverts need to be upsized, would the project proponent pay a share or all of the cost of the upsizing?

What should an RM **not** consider when deciding to grant land control?

- Personal conflicts between landowners.
- The amount of property a landowner owns.
- Conflicts between the RM and the landowner.
- Other considerations not relevant to the impact of the drainage works on RM lands or infrastructure.