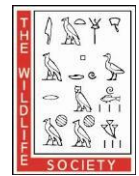




The Wildlife Society
Manitoba Chapter



The Wildlife Society, Manitoba Chapter
Written Submission to Public Consultation on Water Rights Regulation

January 19, 2019

On behalf of the membership of The Wildlife Society, Manitoba Chapter (TWSMB), we would like to provide our review and comment on the proposed Water Rights Regulation, particularly in regard to wetland alteration and drainage. TWSMB is Manitoba's oldest science-based wildlife management organization, comprised of professional biologists, ecologists and natural resource professionals throughout the province of Manitoba. We operate in conjunction with the Canadian Section of the Wildlife Society (CSTWS) and The Wildlife Society (TWS, www.wildlife.org), which has more than 10,000 members from across the globe.

In Manitoba, some of the most important and threatened wildlife habitat is located in southern landscapes dominated by agricultural use. Consequently, it is imperative for natural resource managers to work with agricultural producers to develop and promote management practices that maintain habitats important to wildlife and biodiversity while still producing agricultural commodities. As the latest science has confirmed, and as outlined in our organization's position statement on wetland alteration (attached), wetland ecosystems are critically important to Manitoba's biodiversity, healthy and sustainable watersheds, economy, and health of our communities.

TWSMB is pleased with the proclamation of the Sustainable Watershed Act and the commitment to no net loss (NNL) of wetland benefits contained therein. This government has shown strong leadership by addressing the negative effects of on-going wetland loss in this legislation. Therefore, it was with great anticipation that our organization reviewed the proposed regulation with particular attention paid to the treatment of wetland protection. Our conclusion is that some modifications to the proposed regulations are needed to ensure the desired outcomes for wetland preservation are reached. TWSMB acknowledges the strong effort put into creating this regulation, including the process of stakeholder engagement. While the draft regulation contains some much needed elements, such as the inclusion of Class 3 wetlands in compensation situations, overall we feel that strengthening the compensation mechanisms, increasing mitigation ratios, and ensuring monitoring of regulatory outcomes would help ensure the stated goal of NNL can be met.

Our first concern focuses on the treatment of compensation for wetland losses. The proposed legislation includes increasing a wetland's size as a means of enhancing a wetland. This can be problematic as a compensation-for-loss mechanism. Draining multiple wetlands into an existing one to increase its size (pothole consolidation) does not compensate for the full suite of losses, as one large wetland does not necessarily provide equivalent ecosystem services or biodiversity values as multiple smaller wetlands. Additionally, compensating for the loss of one wetland by providing permanent legal protection to other wetlands does not ensure NNL as there is no replacement for lost wetland's function or benefit to the local landscape. Permanent legal protection for wetlands as a compensation measure is, however, a great requirement included in the regulation. We do note that follow up protection does not seem to expressly apply to wetland restoration projects, and recommend that legal protection apply to all compensation measures.

TWSMB is pleased to see the inclusion of mitigation and replacement ratios in the regulation as these are positive means of compensating for the risk that equal wetland quality and benefit might not be achievable at 1:1 restoration and replacement ratio. However, we recommend that the mitigation and replacement ratios in the Act be increased to reflect a more robust approach to NNL. We suggest a minimum of 3:1 ratio for wetland restoration and greater than 3:1 for the protection of existing wetlands. A 3:1 ratio is consistent with ratios used by Manitoba Infrastructure, so we see no reason it should be lower in the case of this proposed legislation.

Additionally, we are familiar with the established Mitigation Hierarchy employed in habitat conservation across Canada, which is referenced on page 11 of the public consultation document, but not directly referenced in the regulation. It is an excellent approach that reduces losses and leads to compensation only after exploring ways to avoid and reduce impacts. Given its broad use in wetland policy, direct reference to it in the regulation would be beneficial by requiring landowners and regulators alike to rationalize and reduce the need for wetland drainage in the regulatory process.

The registerable projects category for compliance with the Water Rights Act seems to be an improvement in efficiency of managing water related projects. The exclusion of projects that alter or drain Class 3, 4 and 5 wetlands from an expeditious review process is very positive. However, we do suggest this criteria be strongly enforced to prevent ineligible wetland drainage projects (impacting Class 3, 4 or 5 wetlands) from entering the expedited process.

The desired outcome of the proposed regulations must be NNL of wetlands, as stated in the Sustainable Watershed Act. However, without specific commitment to monitoring the implementation and outcomes of the regulatory processes, determining the efficacy of the Act will be impossible. We recommend that monitoring requirements that ensure the ability to identify and report on the success of this regulation over time be included explicitly in the regulation. This will allow for adaptive management in responding to any shortcomings in reaching sustainability targets.

In summary, we see many positive aspects of the proposed regulation, but suggest some ways in which the details can be strengthened or specified to ensure the NNL goal of the Act will be met. We suggest that the draft regulation as provided should not proceed until the above noted issues are reviewed and remedied. We are happy to meet and discuss further with Sustainable Development staff to assist in the next draft of the regulation.

Sincerely,

A handwritten signature in cursive script that reads "Michel Leclaire".

Michel Leclaire
President, The Wildlife Society, Manitoba Chapter

Attach:

TWS Final Position Statement - Alterations of Stream, Riparian, and Wetland Habitats in the US