

---

---

# Proposed New Groundwater and Water Well Act

## A Discussion Paper



Manitoba Conservation and Water Stewardship  
March 22, 2012

# NEW GROUNDWATER AND WATER WELL ACT PROPOSED

## Background

Manitoba Conservation and Water Stewardship is seeking the public's input into a new Groundwater and Water Well Act to replace the existing *The Ground Water and Water Well Act*. *The Ground Water and Water Well Act* and the accompanying Well Drilling Regulation are key pieces of legislation for the management and protection of Manitoba's groundwater resources. The *Act* came into force in 1963 and the regulation in 1969. The *Act* has a broad set of regulatory powers, but its main framework and underlying philosophy is over 40 years old. Relatively minor changes to the Regulation were made in 1989, while other changes have come about as a result of consequential amendments to other acts (*The Water Protection Act*, *The Drinking Water Safety Act*, and *The Oil and Gas and Consequential Amendments Act*).

Significant change to the *Act* is necessary to deal with a number of issues not currently included in legislation or where strengthening of legislation is needed to provide additional protection to groundwater and aquifers. Consequently, it is proposed to replace the current *Act* with a new act; similarly named The Groundwater and Water Well Act. The new act will include measures to manage and protect groundwater, as well as to strengthen legislation governing the drilling, construction, maintenance, and sealing of wells. In addition to water supply wells, the amendments will also apply to geothermal, geotechnical, and monitoring wells that are not adequately addressed in the existing *Act*. The new act will also set out the process for establishing aquifer management plans for the management, protection, and sustainable use of aquifers. The new act would also enable the development of supporting regulations.

## Proposed Areas of Revision

Five main areas have been identified for amendments including:

- licensing and certification;
- management and protection of groundwater, including a process for aquifer management planning;
- well drilling, construction, and sealing standards;
- groundwater and well database; and
- compliance and enforcement.

## **Licensing and Certification**

### **Issue**

The current provincial licensing requirements apply only to companies that drill water wells, not to individual well drillers. There are no certification requirements to ensure water well professionals in Manitoba have the necessary knowledge and experience for the drilling, construction, and sealing of wells. In addition, there is no licencing or certification process for the drilling of closed loop geothermal holes or geotechnical holes, or for individuals who seal abandoned water wells but do not drill wells. Most other provinces now have a legislative requirement for licensing and/or certification of well drilling professionals.

### **Proposed Changes**

The proposed legislation would:

- allow for the administration of a fair and equitable licensing and certification program;
- ensure a minimum level of competence among well drilling professionals; and
- increase public confidence in the well driller or sealer as a certified professional.

The definition of a “well” will be expanded to include geotechnical holes and holes drilled for closed loop geothermal systems. The main concern is related to wells which intersect an aquifer and the potential risk they may pose on groundwater resources and human health if not constructed or sealed to an adequate standard.

The proposed legislation would require well drillers and well sealers to be certified on an annual basis. Manitoba Conservation and Water Stewardship is also proposing to establish and maintain a register of well drilling contractors, certified well drillers, and certified well sealers.

Licensing requirements for firms that drill wells will include provisions that they employ certified well drillers and maintain minimum levels of liability insurance. Firms who seal wells but do not drill wells would not have to be licensed. However, any individual sealing a well would have to be certified and possess a minimum level of liability insurance to undertake any sealing work. There would also be restrictions on the type of wells companies or individuals could seal so that anyone sealing a well is working within their level of competence.

## **Management and Protection of Groundwater**

### **Issue**

The existing legislation needs to be strengthened in a number of areas to enhance management and protection of provincial groundwater resources. For example, legislation in a number of provincial acts require set-back distances between water wells and potential sources of contamination such as septic systems and manure storage facilities when these systems are

installed. However, no similar legislation sets out complementary set-back distances when a well is drilled near potential sources of contamination. As well, should a well driller encounter contamination during the drilling of a well, current legislation requires that the driller construct the well in a manner to prevent entrance of the contamination into the well, even though the driller may not have an understanding of the source or extent of contamination. A similar situation exists when dealing with the sealing of a contaminated abandoned well. Additionally, groundwater protection measures will be strengthened for the drilling and sealing of wells in areas where sensitive groundwater situations may occur (such as those where a higher risk of groundwater contamination may exist, where the intermixing of groundwater of distinctively different water quality exists, or those near a natural fresh water-salt water boundary), and in saline and flowing artesian well areas.

Several successful aquifer management plans have been developed and implemented for aquifers in Manitoba over the past decade (Winkler, Oak Lake and Assiniboine Delta aquifers). The proposed legislation would allow for a formalized process for the establishment of aquifer management plans for the management, protection, and sustainable use of aquifers.

### **Proposed Changes**

The proposed legislation would:

- require a well driller to contact Manitoba Conservation and Water Stewardship when contamination is recognized during the drilling or sealing of a well and halt drilling or sealing until permission is received from Manitoba Conservation and Water Stewardship.
- allow for developing criteria to classify a well as contaminated or saline. This will be done through regulations under the new act and include consideration of various water quality standards, objectives and guidelines such as those under Manitoba's *Water Protection Act* or developed by the Canadian Council of Ministers of the Environment or Health Canada.
- allow for designating sensitive groundwater areas.
- define the conditions under which a permit may be required for constructing or sealing a well in a sensitive groundwater area or sealing a contaminated, saline or flowing artesian well where special well construction or well sealing techniques must be employed.
- require a permit to construct or seal an injection well for disposal of saline or waste water.
- require the protection of wells in designated flood areas.
- allow for the establishment of aquifer management plans.

## Well Drilling, Construction and Sealing Standards

### Issue

In addition to water supply wells, there is a need for the new act to apply to groundwater wells constructed to serve the geothermal industry, for geotechnical wells to serve the construction industry, and for monitoring wells. The existing *Act* either does not apply to these three areas or provided inadequate protection. There is also a need for well drilling, construction, and sealing standards including requirements for the maintenance of wells after construction is complete.

### Proposed Changes

The proposed legislation would:

- enable the establishment of regulations that will include some or all closed loop geothermal and geotechnical holes.
- enable regulations to be established for the sealing of wells.
- enable additional regulations to be established for the drilling, construction and protection of wells.
- provide more detail on the control of flow from a flowing artesian well and on declaring wells to be abandoned and contaminated.
- require submission of a report for the sealing of a well and specify the requirements for submitting either a well drilling or well sealing report.

## Groundwater and Well Database

### Issue

Obtaining information on the geology and hydrogeology of Manitoba and providing access to this information is important for activities such as the investigation of groundwater contamination. Changes to the *Act* are required to allow for the establishment and maintenance of a database of provincial groundwater and well information in a manner that meets requirements under *The Freedom of Information and Protection of Privacy Act*.

Well drillers are currently required to provide a report on each well drilled within five days of completion of a well. However, there is no requirement of a report to be filed when modifications are made to a well or when a well is sealed. No reports are required for closed loop geothermal holes or geotechnical holes. Changes to the *Act*, and in particular to its regulations, are necessary to make reporting requirements achievable and effective.

## **Proposed Changes**

The proposed legislation would allow the Director to establish and maintain a database of provincial groundwater and well information.

In the future, under a proposed regulation, well drillers or sealers and other professionals supervising the drilling or sealing of a well would be required to submit a completed and signed report for each well drilled, modified, or sealed within a specified time period following the completion of the work (likely 30 to 60 days). Reports would also be required for closed loop geothermal or geotechnical wells that intersect an aquifer or meet other criteria as established by regulation. Reports would require a GPS location for the well and a well identification number for a tag attached to the well or the existing tag number for an abandoned well that is sealed.

## **Compliance and Enforcement**

The proposed legislation would address compliance and enforcement issues and allow timely and cost effective enforcement. Compliance and enforcement measures are proposed for the following areas:

- well construction and well sealing orders;
- appeals to the Minister;
- entry and inspections;
- offense and penalty; and
- reporting of violations.

## **Implementation**

Manitoba Conservation and Water Stewardship will work closely with the public and industry to introduce and implement the new legislation. An educational approach will be taken in implementing and enforcing the new act and its supporting regulation. As each supporting regulation is introduced, an opportunity for public comment would be provided. The Well Drilling Liaison Officer will continue to work closely with industry and the public to implement a smooth transition to the proposed changes. However, consistent with other provincial legislation, substantial fines are required for cases of obvious non-compliance. Protecting groundwater is a priority. Tracking and monitoring of compliance will include, but not be limited to, the licensing and certification of well drilling and well sealing professionals, the submission of well drilling and sealing reports, and the scheduled and random inspection of wells.

## **Share Your Views**

Manitoba Conservation and Water Stewardship is committed to engaging stakeholders on the proposed new Groundwater and Water Well Act. Comments are encouraged and should be provided in writing to:

Mr. Bob Betcher  
Manager, Groundwater Management Section  
Manitoba Conservation and Water Stewardship  
Box 11, 200 Saulteaux Crescent  
Winnipeg MB R3J 3W3  
Phone: 204-945-7420 in Winnipeg; toll-free at 1-800-282-8069 (extension 7420)  
E-mail: [groundwater@gov.mb.ca](mailto:groundwater@gov.mb.ca)

**Comments will be accepted until April 20, 2012.**

**More information is also available on our web site at**  
**[www.manitoba.ca/waterstewardship/groundwater](http://www.manitoba.ca/waterstewardship/groundwater)**