

ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER NO. EPO-EPEA-37299

A. Gering Ranching Ltd.
3024 – 1 Avenue
Edson, Alberta
T7E 1N9

And

Mr. Darryl Gering
3024 – 1 Avenue
Edson, Alberta
T7E 1N9

WHEREAS on November 8, 2021, Alberta Environment and Parks ("AEP") became aware of a gravel pit in excess of five hectares in size (the "Pit") that was being operated on lands legally described as the SW-02-055-14-W5M (the "Lands") within Yellowhead County, Alberta;

WHEREAS a registration pursuant to the *Code of Practice for Pits* under the *Environmental Protection and Enhancement Act* is required in Alberta prior to commencing any activity at a pit where the area of the pit and any associated infrastructure is greater than or equal to five hectares (12.5 acres) in size;

WHEREAS on November 8, 2021, an AEP Environmental Protection Officer ("EPO") conducted a desktop review confirming there was no registration for the Pit, and, using aerial photography, determined that the size of the Pit was approximately 11 hectares. The alleged operators were A. Gering Ranching Ltd. and Darryl Gering (collectively referred to as the "Parties");

WHEREAS on November 9, 2021, an EPO inspected the Pit and observed the following:

- a) The total operational foot print of the Pit exceeds 11 hectares;
- b) The Pit is divided into two distinct areas connected by a common access road; the west pit and the east pit;
- c) Within the west pit is a large processed gravel pile and an end-pit lake approximately 1.5 hectares in size; and,
- d) Within the east pit is a small unprocessed gravel pile and an end-pit lake approximately three hectares in size;

WHEREAS on November 10, 2021, the EPO conducted a telephone interview with Darryl Gering. During the interview, the EPO was advised of the following:

- a) The Parties own the Parcel and operate the Pit;
- b) The Pit is in operation, no mining is occurring, the Pit is mostly reclaimed and the Pit is used to stock pile gravel;
- c) The Parties were aware that a pit registration is required to operate a pit greater than or equal to five hectares in size and the Parties were aware that the impoundment of water requires a *Water Act* authorization;
- d) The Lands were bought years ago, were previously mined for gravel by Alberta Transportation, and there are a lot of constructed lakes on the Lands. He assumed that historical pits that were previously mined were exempt from a pit registration; and,
- e) The Parties will make application for a pit registration and *Water Act* approval;

WHEREAS the activity of the construction and operation of a pit at the SW-02-055-14-W5M is defined as specified lands under the *Conservation and Reclamation Regulation* ("C&R Regulation"). Based upon the evidence gathered, the pit is greater than five hectares in size and has occurred or is occurring without a valid registration;

WHEREAS on December 18, 1995, A. Gering Ranching Ltd. became the registered owner of the lands described as the SW-02-055-14-W5M;

WHEREAS Mr. Darryl Gering is one of two directors of A. Gering Ranching Ltd;

WHEREAS the Parties are an 'operator' under section 134(b)(ii) of the *Environmental Protection and Enhancement Act*;

WHEREAS Section 14 of the C&R Regulation states:

Where an inspector is of the opinion that specified land has not been conserved or reclaimed in accordance with section 137 of the Act, this Regulation and any applicable code of practice, the inspector may do one or more of the following:

- a) provide further direction respecting conservation or reclamation;*
- b) specify an additional waiting period to allow for a further evaluation of the conservation and reclamation;*
- c) issue an environmental protection order regarding conservation or reclamation in accordance with section 140 of the Act;*
- d) refuse to issue a reclamation certificate.*

WHEREAS on November 16, 2021 the direction(s) of an Inspector was issued as per sections 137(2)(c) and 137(2)(d) of the *Environmental Protection and Enhancement Act* by an AEP Inspector to the Parties, directing the cessation of any and all unauthorized activities, and the production of information regarding the specified lands;

WHEREAS section 61 of the *Environmental Protection and Enhancement Act* states that no person shall commence or continue any activity that is designated by the regulations as requiring an approval or registration unless that person holds the required approval or registration;

WHEREAS section 83.1 of the *Environmental Protection and Enhancement Act* states that no person shall commence or continue an activity that is designated by the regulations as requiring a registration and governed by a code of practice except in accordance with that code of practice;

WHEREAS section 5(2) of the *Activities Designation Regulation* designates activities listed in Schedule 2 as activities in respect of which a registration is required;

WHEREAS Schedule 2, Division 3 (b) of the *Activities Designation Regulation* lists the construction, operation or reclamation of a pit;

WHEREAS section 3(3)(d) of the *Activities Designation Regulation* defines "pits" for the purposes of Division 3 of Schedule 2 as meaning an opening or excavation in or working of the surface or subsurface for the purpose of removing any sand, gravel, clay or marl, where the area of the pit and any associated infrastructure, including stockpiles, connected with the pit, is on or after November 1, 2004 greater than or equal to 5 hectares (12.5 acres);

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS section 1(t)(v) of the *Conservation and Reclamation Regulation* defines "specified lands" to include land that is being used or has been used or held in connection with the construction, operation or reclamation of a mine, pit, borrow excavation, quarry or peat operation;

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by the Department, is adopted and forms part of that regulation and requires that a person carrying on an activity referred to in Column A of the Schedule must comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the Code of Practice for Pits, published by the Department;

WHEREAS Frank Steil, AEP Environmental Protection Officer, North Region, (the "Inspector") has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the surface disturbance is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d) for the purposes of Division 3 of Schedule 2;

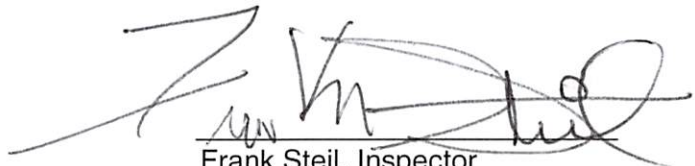
WHEREAS the Inspector is of the opinion that the surface land disturbance meets the criteria of "specified lands" defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Inspector is of the opinion that the suspension of the operation in the pit and directing the performance of work is necessary in order to conserve specified land;

THEREFORE, I Frank Steil, AEP Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER that:

1. All processed aggregate stockpiled material leaving the specified lands must be monitored, tracked, and documented. Documentation must include, at a minimum the following:
 - a) Receipts including trucking manifests identifying volume, size of aggregate, the customer/recipient, and location of delivery; and,
 - b) A monthly summary of total volumes.
2. Documentation must be compiled and submitted to the Inspector at Frank.Steil@gov.ab.ca on a monthly basis and must be submitted by the end of day on the first Thursday of every month for the duration this Order is in effect.
3. The Parties must retain all documentation for the duration this Order is in effect.
4. The Order shall remain in place until a Registration is authorized and in effect or no later than November 30, 2022.
5. Where a deadline or reporting frequency has been specified in this Order, the Inspector may authorize in writing a different deadline or reporting frequency as applicable without amending the Order.

DATED at the Town of Edson in the Province of Alberta, this 24th. day of June, 2022.



Frank Steil, Inspector
Environmental Protection Officer
North Region, Boreal District

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

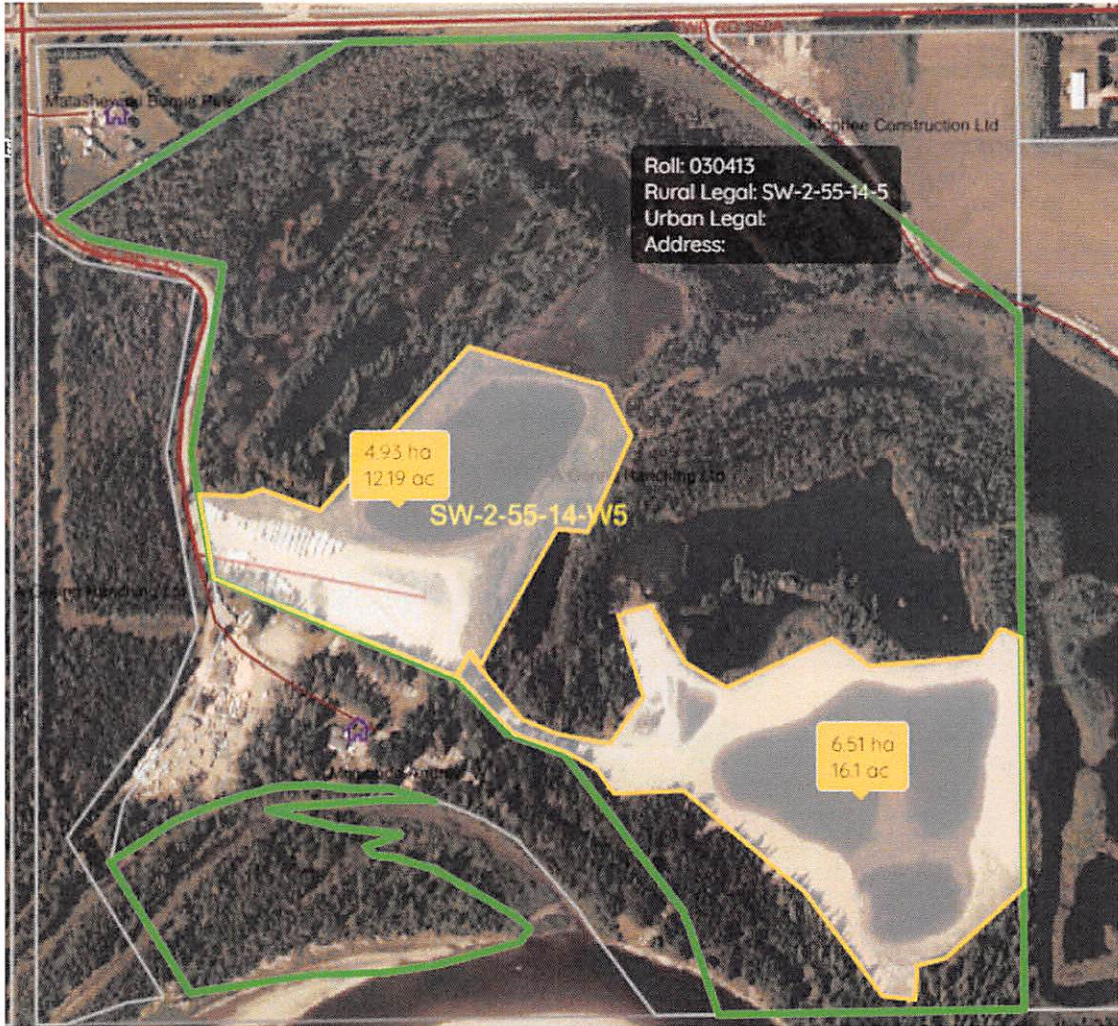
Notwithstanding the above requirements, the Parties shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.

Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.

Take notice that if the Parties choose to continue to construct, operate and reclaim specified lands without a valid registration, immediate enforcement action may be taken. Furthermore you may be held liable on a conviction for each day or part of the day the offence occurs or continues.

Appendix A



Notice of appeal

91(1) A notice of appeal may be submitted to the Board by the following persons in the following circumstances:

(a) where the Director issues an approval, makes an amendment, addition or deletion pursuant to an application under section 70(1)(a) or makes an amendment, addition or deletion pursuant to section 70(3)(a), a notice of appeal may be submitted

(i) by the approval holder or by any person who previously submitted a statement of concern in accordance with section 73 and is directly affected by the Director's decision, in a case where notice of the application or proposed changes was provided under section 72(1) or (2), or

(ii) by the approval holder or by any person who is directly affected by the Director's decision, in a case where no notice of the application or proposed changes was provided by reason of the operation of section 72(3);

(b) where the Director refuses

(i) to issue an approval, or

(ii) to make an amendment, addition or deletion in respect of an approval pursuant to an application under section 70(1)(a),

the applicant may submit a notice of appeal;

(c) where the Director cancels or suspends an approval under section 70(3)(b) or (4), the approval holder may submit a notice of appeal;

(d) where the Director cancels a certificate of qualification under section 83(1)(b), the holder of the certificate of qualification may submit a notice of appeal;

(e) where the Director issues an enforcement order under section 210(1)(a), (b) or (c), the person to whom the order is directed may submit a notice of appeal;

(f) where an inspector issues an environmental protection order regarding conservation and reclamation under section 140 or 141, the person to whom the order is directed may submit a notice of appeal;

(g) where the Director issues an environmental protection order under section 129,

(i) the person to whom the order is directed, and

(ii) any person who is directly affected by the designation of the contaminated site

may submit a notice of appeal;

(h) where the Director issues an environmental protection order, except an environmental protection order directing the performance of emergency measures under section 114, 151 or 160 and an environmental protection order referred to in clause (g), the person to whom the order is directed may submit a notice of appeal;

(i) where an inspector issues a reclamation certificate under section 138, or the Director or an inspector amends a reclamation certificate under section 139, the operator and any person who receives a copy of the certificate or amendment under section 145 may submit a notice of appeal;

(j) where the Director or an inspector cancels a reclamation certificate, the operator may submit a notice of appeal;

(k) where the Director or an inspector refuses to accept an application for a reclamation certificate or an inspector refuses to issue a reclamation certificate, the operator may submit a notice of appeal;

(l) where the Director or an inspector issues, amends or cancels a remediation certificate under section 117, any person who receives notice of the issuance, amendment or cancellation as provided for in the regulations may submit a notice of appeal;

(l.1) where the Director or an inspector refuses to accept an application for a remediation certificate or refuses to issue a remediation certificate under section 117, any person who receives notice of the refusal as provided for in the regulations may submit a notice of appeal;

(m) where the Director designates an area as a contaminated site under section 125, any person who is directly affected by the designation may submit a notice of appeal;

(n) where the Director requires a person to pay an administrative penalty under section 237, the person to whom the notice is directed may submit a notice of appeal;

(o) where the Director refuses a request for confidentiality under section 35(5)(b), the person to whom the notice is directed under section 35(6) may submit a notice of appeal;

(p) persons authorized under Part 9 of the *Water Act*, in accordance with Part 9 of the *Water Act*.

(2) Notwithstanding subsection (1)(b), where the Director refuses to issue an approval pursuant to an order of the Minister under section 64, no notice of appeal may be submitted in respect of that refusal.

(3) Where an activity prescribed in the regulations for the purposes of this subsection is the subject of an approval and is carried out in stages, and where the Director issues an approval in respect of a stage, no notice of appeal may be submitted in respect of a stage that is already covered by the approval.

(4) A notice of appeal must be submitted to the Board

(a) not later than 7 days after receipt of a copy of the enforcement order or the environmental protection order, in a case referred to in subsection (1)(e), (f) or (h),

(b) not later than one year after receipt of a copy of the reclamation certificate, in a case referred to in subsection (1)(i) relating to the issuing of a reclamation certificate, and

(c) not later than 30 days after receipt of notice of the decision appealed from or the last provision of notice of the decision appealed from, as the case may be, in any other case.

(5) The Board may, on application made before or after the expiry of the appeal period referred to in subsection (4), extend that period, where the Board is of the opinion that there are sufficient grounds for doing so.

(6) A notice of appeal submitted to the Board under this Act or in accordance with the *Water Act* must contain the information and be made in the manner provided for in the regulations.

(7) A notice of appeal initiates an appeal of the decision objected to.

RSA 2000 cE-12 s91;2002 c4 s1;2003 c37 s14;
2003 c42 s6;2006 c15 s10