

ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT
BEING CHAPTER E-12 R.S.A. 2000 (the "Act")

Amendment No. 1
to

ENVIRONMENTAL PROTECTION ORDER NO. EPO-2016/02-UAR

Millar Western Industries Ltd.
c/o Registered Office
2900, 10180 101 Street
Edmonton, AB
T5J 3V5

WHEREAS on April 20, 2016, the Director issued to Millar Western Industries Ltd. ("Millar Western") Environmental Protection Order No. EPO-2016/02-UAR (the "Order"), which required Millar Western to take certain measures related to its Chickadee Creek Wood Waste Incinerator site, including carrying out certain monitoring and reporting requirements, as described in the Order;

WHEREAS since the issuance of the Order, the Director has received, among other information, the following from Millar Western:

- On April 29, 2016, Millar Western sent a detailed list of all equipment, buildings, structures and appurtenances removed from the Lands, are present on the Lands, and will remain on the Lands as required under clause 3 of the Order.

WHEREAS on May 5 and May 11, 2016, Millar Western and Alberta Environment and Parks (AEP) engaged in discussions regarding the nature and source of the phenol concentrations found in groundwater under the site, and the requirements under clause 6 of the Order.

WHEREAS during the May 5 and 11, 2016 discussions between Millar Western and AEP, Millar Western also requested that the frequency for monitoring the surface water under clause 6(d)(i) of the Order be changed from monthly during the open water season to twice during the open water season, since Millar Western was of the view that adequate data upon which to make informed decisions could be obtained in fewer sampling events. AEP representatives agreed with this rationale;

WHEREAS on May 26, 2016, Millar Western requested via email that, due to the delay caused by the discussions that occurred between Millar Western and AEP on May 5 and May 11, 2016, the due date for the 2016 Surface Water and Sediment Monitoring Plan be extended;

WHEREAS on May 27, 2016, the Director met with Millar Western to discuss Millar Western's concerns about the requirements of the Order and their timing in relation to Millar Western's application for a new approval. The Director requested Millar Western put its requests for an Order amendment in writing;

WHEREAS on May 30, 2016, the Director received from Millar Western a written request for certain amendments to the Order, including:

- Surface water phenol delineation to 0.015mg/L, rather than to *Alberta Environmental Quality Guidelines for Alberta Surface Waters*;
- Removal of clauses 5-9 from the Order and instead combining the surface water and sediment monitoring into the Annual Groundwater Monitoring Summary Report, or alternatively leaving clauses 5-9 in the Order and
 - o change the due date for submission of the Surface Water and Sediment Monitoring Plan;
 - o expand the professionals that may sign the Surface Water and Sediment Monitoring Plan;
 - o removal of F3 and F4 from the parameters to be monitored; and
 - o reducing the sampling frequency from monthly to twice annually;

WHEREAS on June 8, 2016, the Director met with representatives of Millar Western to discuss the Order, the information needs of AEP and the potential timing of future approvals that may be issued by AEP;

WHEREAS on June 20, 2016 the Director received from Millar Western the 2016 Surface Water and Sediment Monitoring Plan and on June 24, 2016 the Director received written confirmation from Millar Western, which together stated that for the purposes of monitoring phenol concentrations under the 2016 Surface Water and Sediment Monitoring Plan, Millar Western will compare the results from surface water phenol concentrations to the *Environmental Quality Guidelines for Alberta Surface Waters (July 14, 2014)*;

THEREFORE I, Todd Letwin, Regional Compliance Manager, Upper Athabasca Region, pursuant to section 243 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. Millar Western shall implement the entirety of each of following sections of the 2016 Surface Water and Sediment Monitoring Plan, submitted to the Director on June 20, 2016, in accordance with the timelines set out in each of the following sections:
 - a. Section 3.1;
 - b. Section 3.2;
 - c. Section 4.0;
 - d. Section 4.1; and
 - e. Section 6.0
2. Millar Western shall implement Section 5.0 of the 2016 Surface Water and Sediment Monitoring Plan, submitted to the Director on June 20, 2016, except that the words

"Phenol parameters will be compared against 0.015mg/L, the identified concentrations of phenols in background monitoring wells",

are removed and replaced by,

"Phenol parameters will be compared against the *Environmental Quality Guidelines for Alberta Surface Waters (July 14, 2014)*".

3. The following is added to the end of clause 5 of Environmental Protection Order EPO-2016/02-UAR:
" , Association of Professional Engineers and Geoscientists of Alberta (APEGA) or Alberta Institute of Agrologists."
4. The reference to "**June 25, 2016**" in clause 6(f) of Environmental Protection Order EPO-2016/02-UAR, is deleted and replaced by "**June 30, 2016**".
5. Clause 8 of Environmental Protection Order EPO-2016/02-UAR, is deleted and replaced by the following:
"Millar Western shall include in its 2017 Annual Groundwater Monitoring Program Summary Report, which is due on March 31, 2017, a section entitled "Surface Water and Sediment Report."

DATED at the City of Spruce Grove in the Province of Alberta, this 24th day of June, 2016.

Original Signed by: Todd Letwin
Regional Compliance Manager
Upper Athabasca Region

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 Party(ies) 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.