

ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT

BEING CHAPTER E-12 RSA 2000 (the "Act")

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 Millar Western Industries Ltd. ("Millar Western") holds a miscellaneous lease ("DML 950087") on public land within sections NW-24-60-14-W5M, SW-25-60-14-W5M, and SE-26-60-14-W5M in Woodlands County, in the Province of Alberta (the "Lands");

WHEREAS Millar Western is the owner and operator of Chickadee Creek Wood Waste Incinerator [the "Incinerator"], which was authorized under the *Environmental Protection and Enhancement Act* [the "Act"], Approval 9835-02-00, as amended [the "Approval"] on the Lands;

WHEREAS the Incinerator is located on SW-25-60-14-W5M on the Lands;

WHEREAS clause 6.1.2 of the Approval required Millar Western to submit a Decommissioning and Land Reclamation Plan within six months of the plant, including the Incinerator, ceasing operation;

WHEREAS on or about May 28, 2015, Millar Western advised Alberta Environment and Parks (AEP) that Millar Western would like to redesignate the Incinerator site for a new purpose;

WHEREAS on December 22, 2015, one day before the Government of Alberta formally closed until January 4, 2016, AEP received from Millar Western a Decommissioning and Land Reclamation Plan as required by clauses 6.1.1 and 6.1.2 of the Approval;

WHEREAS Millar Western was required to submit to AEP an approval renewal application for authorization prior to the expiry of the Approval on January 1, 2016, which was never received;

WHEREAS on January 1, 2016, the Approval expired resulting in there being no authority for Millar Western to conduct any activity on the Lands;

WHEREAS Millar Western's 2014 Annual Groundwater Monitoring Summary Report, submitted to AEP on March 27, 2015, showed phenol concentrations in groundwater exceeding the *Alberta Tier 1 Soil and Groundwater Remediation Guidelines*, February 2, 2016 ("*Tier 1 Guidelines*") in four out of six monitoring wells on the Lands;

WHEREAS Millar Western's 2015 Annual Groundwater Monitoring Summary Report, submitted to AEP on date March 23 2016, showed phenol concentrations in groundwater exceeding the "*Tier 1 Guidelines*";

WHEREAS Millar Western's 2015 Soil Monitoring Program Report, submitted to AEP on October 13, 2015, showed levels of phenols, Sodium Adsorption Ratio (SAR), Boron and petroleum hydrocarbon fraction F3 in soil on the Lands exceeding the *Tier 1 Guidelines*;

WHEREAS as of the date of this order, Millar Western cannot implement its 2015 Decommissioning and Reclamation Plan as the Approval has expired;

WHEREAS the phenols found in groundwater and soil, and the SAR, Boron and petroleum hydrocarbons found in soils under the Lands are all "Substances" as defined in section 1(mmm) of the *Act*, and constitute one or more releases of a substance into the environment;

WHEREAS pursuant to section 1(tt) of the *Act*, Millar Western is a "person responsible" for the Substances in that it had charge, management and control over the handling, storage and disposal of the Substances;

WHEREAS Todd Letwin, Regional Compliance Manager, Upper Athabasca Region (the "Director") has been appointed a Director for the purposes of issuing environmental protection orders under the *Act*;

WHEREAS the Director is of the opinion that a release of one or more Substances into the environment has occurred and may occur, and that the release of one or more of the Substances may cause or is causing an adverse effect;

WHEREAS the release(s) of the Substances was not authorized by an approval or regulations under the *Act*;

WHEREAS until AEP can make decisions on Millar Western's application for conducting the required decommissioning and reclamation activities on the Lands, and the repurposing of a portion of the Lands, Millar Western must continue to conduct monitoring, reporting and other activities on the Lands related to the release of the Substances;

THEREFORE I, Todd Letwin, Director, pursuant to section 113(1) of the *Act*, DO HEREBY ORDER THAT:

1. Unless otherwise identified in this Order, all definitions set out in clauses 1.1.1 and 1.1.2 of the expired Approval 9835-02-00, as amended, shall apply to this Order.
2. Millar Western shall **immediately** and until advised otherwise in writing by the Director, comply with each of the following clauses in the expired Approval 9835-02-00, as amended, and appended to this Order:

General

- (i) 2.1.1;
- (ii) 2.1.2;
- (iii) 2.1.4;
- (iv) 2.1.5;
- (v) 2.1.6;

Record Keeping

- (vi) 2.2.1;

Analytical Requirements

- (vii) 2.3.1;

- (viii) 2.3.2;
- (ix) 2.3.3;
- (x) 2.3.4;

Industrial Wastewater

- (xi) 4.2.1;
- (xii) 4.2.2;
- (xiii) 4.2.3;
- (xiv) 4.2.4;
- (xv) 4.2.5;
- (xvi) 4.2.6;

Waste Management

- (xvii) 4.3.9;
- (xviii) 4.3.10;
- (xix) 4.3.11;
- (xx) 4.3.12;
- (xxi) 4.3.13;

Groundwater

- (xxii) 4.5.1;
- (xxiii) 4.5.2;
- (xxiv) 4.5.3
- (xxv) 4.5.4;
- (xxvi) 4.5.5;
- (xxvii) 4.5.6; and
- (xxviii) 4.5.7.

3. Millar Western shall submit to the Director by **April 29, 2016** a written detailed list of all equipment, buildings, structures and appurtenances that:
 - a. are present on the Lands;
 - b. have been removed from the Lands; and
 - c. Millar Western proposes to remain on the Lands.

4. With respect to groundwater monitoring, Millar Western shall:
 - a. immediately delineate the entire
 - (i) lateral; and
 - (ii) vertical

extent in all groundwater

 - (iii) under the Lands; and
 - (iv) all areas adjacent to the Lands

all substances identified in Millar Western's 2014 Annual Groundwater Monitoring Summary Report, as compared to the *Tier 1 Guidelines*;

- b. in addition to the requirement to comply with clause 4.5.1 of the expired Approval, also monitor for petroleum hydrocarbon fractions F1, F2, F3 and F4; and
- c. by **March 31, 2017** in Millar Western's 2016 Annual Groundwater Monitoring Summary Report submit to the Director, in writing,
 - (i) the raw data; and
 - (ii) a detailed interpretation

of the results of the delineation carried out in accordance with clause 4(a) of this Order, as compared to the *Tier 1 Guidelines*.

5. Millar Western shall, by **May 27, 2016**, submit to the Director for the Director's approval a written 2016 Surface Water and Sediment Monitoring Plan, signed by a professional currently registered and in good standing with the Alberta Society of Professional Biologists (ASPB).
6. In the 2016 Surface Water and Sediment Monitoring Plan, Millar Western shall include at least all of the following:
 - a. Detailed plan to monitor the
 - (i) surface water; and
 - (ii) sediment;

in Chickadee Creek in all of the following locations:

 - (iii) adjacent to the Incinerator site;
 - (iv) upstream of the Incinerator site; and
 - (v) downstream of the Incinerator site;
 - b. The parameters that will be monitored, including at least all of the following:
 - (i) all parameters identified in Millar Western's approved 2015 Groundwater Monitoring Program (Approval 9835-02) in expired Approval 9835-02, as amended; and
 - (ii) petroleum hydrocarbon fractions F1, F2, F3 and F4;
 - c. The number of proposed sampling locations in Chickadee Creek;
 - d. The proposed monitoring frequency during the June-October 2016 period, including at minimum:
 - (i) monthly surface water sampling during the open water season, and
 - (ii) one annual sediment sampling event in October of each year.
 - e. The plan to compare the surface water and sediment monitoring results with the *Environmental Quality Guidelines for Alberta Surface Waters (July 2014)*; and
 - f. A schedule for implementing the Surface Water and Sediment Monitoring Plan with an implementation date of no later than **June 25, 2016**.

7. Millar Western shall implement the Surface Water and Sediment Monitoring Plan as approved in writing by the Director in accordance with the schedule of implementation approved by the Director.
8. Millar Western shall, by January 8 2017, submit to the director a written Surface Water and Sediment Report.
9. In the Surface Water and Sediment Report, Millar Western shall include at least all of the following;
 - a. The raw data;
 - b. A detailed interpretationof the results of the implementation of the approved 2016 Surface Water and Sediment Monitoring Plan.

DATED at the City of Spruce Grove in the Province of Alberta this 20th day of April, 2016.

Original Signed by: Todd Letwin
Regional Compliance Manager
Upper Athabasca Region
Designated Director under the Act

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 enforcement 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.