

WATER ACT

BEING CHAPTER W-3 R.S.A. 2000 (the "Act")

ENFORCEMENT ORDER NO. EO-WA-36080-01

Beecal Developments Ltd.

3300, 421 – 7th Ave SW
Calgary, Alberta T2P 4K9

WHEREAS Beecal Developments Ltd. ("Beecal") is the registered owner of the land parcel legally described as Plan 1110333, Block2, Lot 3 in SE 15-27-29 W4M (the "Lands")

WHEREAS on January 29, 2021, Ghostpine Environmental Services Ltd. ("Ghostpine"), on behalf of Beecal, reported a potential unauthorized wetland disturbance ("Unauthorized Activities") on a subsection of the Lands. The assigned Reference Number was 375588;

WHEREAS on February 4, 2021, Ghostpine submitted a 7 day Letter in relation to Reference Number 375588. The 7 Day letter confirmed that

- A wetland area located at SE 14-27-29-W4M (the "Impacted Wetland") had been disturbed due to landscape/drainage modification and/or placement of fill materials;
- The unauthorized activity occurred sometime between 2007-2013 during the construction of Beecal's Highland Park Development;

WHEREAS an Alberta Environment and Parks ("AEP") Wetland Specialist reviewed the information provided by Ghostpine as well as historic air photos to determine wetland boundaries and affected areas.

WHEREAS on March 4, 2021, AEP Wetland Specialist identified that 5.8062 ha of historic wetland was impacted by development activities on the Lands.

WHEREAS based on the information supplied by Ghostpine, the original wetland on the Lands has been in a significantly degraded state since the 2007-2013 construction period and any remaining wetland areas are not indicative of the original wetland value.

WHEREAS the current degraded wetland value has been in place for a significant period of time.

WHEREAS the Wetland Mitigation Hierarchy included in the Alberta Wetland Policy is

1. Avoid – primary and preferred response is to avoid impacts on wetlands
2. Minimization – where avoidance is not possible, proponents are expected to minimize impacts on wetlands.

3. Replacement – as a last resort, where avoidance and minimization efforts are not feasible or prove ineffective, wetland replacement is required.

WHEREAS during February and March, 2021, several conversations between AEP and Beecal occurred to discuss potential remedial options. During these conversations, it was identified to Beecal that remedial options include:

- (a) restore the Impacted Wetlands to their respective conditions prior to the Unauthorized Activities, including both wetland area and classification, in the same location the loss occurred;
- (b) replace the impacted wetlands at a 1:1 ratio within the Lands, including restoring wetlands of equal area and classification as those lost as a result of the Unauthorized Activities;
- (c) obtain other lands to replace the impacted wetlands or retain a third party wetland replacement agent to meet the remedial requirements of to replace the impacted wetlands of equal area and classification as those lost as a result of the Unauthorized Activities; or
- (d) pay wetland restoration service fees to the AEP Wetland Replacement Program.

WHEREAS on April 8, 2021, Beecal provided a letter describing that due to a variety of circumstances, they were unable to comply with the avoidance or mitigation options of the Wetland Policy (options (a) thru (c) as listed above), due to social and economic considerations associated with the intended and required utilization of the footprint of the Lands.

WHEREAS on April 29, 2021 a correction for the wetland area was made due to a GIS program projection issue. The resulting impacted wetland area was determined to be 2.2659 ha, not 5.8062 ha.

WHEREAS the degraded wetland is located in Alberta Environment and Parks Relative Wetland Value Assessment Units ("RWVAU") 13 based on the Alberta Wetland Mitigation Directive.

WHEREAS it is the Director's discretion that the degraded wetland is of the lowest value (Relative Wetland Value D). The Directive for Permittee-Responsible Wetland Construction in Alberta, designates the abundance factor of RWVAU 13 as a "+1" area raising the assessed wetland value up one level (Relative Wetland Value D to a Relative Wetland Value C).

WHEREAS Figure 2 of the Alberta Wetland Mitigation Directive identifies replacement value ratio for a Relative Wetland Value C is 2:1

WHEREAS the Impacted Wetland is a "water body" as defined in section 1(1)(ggg) of the *Water Act*;

WHEREAS each of the Unauthorized Activities is an "activity" as defined in Section 1(1)(b) of the *Water Act*;

WHEREAS section 36(1) of the *Water Act* states that no person shall commence or continue an activity except pursuant to an approval unless it is otherwise authorized under this Act;

WHEREAS AEP has not issued an approval under the *Water Act* to Beecal or any other person authorizing any of the Unauthorized Activities, and these activities are not otherwise authorized under the *Water Act*;

WHEREAS Beecal is a person responsible for the Unauthorized Activities pursuant to Section 1(1)(kk) of the *Act* and Section 1(5) of the Water (Ministerial) Regulation (AR 205/1998);

WHEREAS Craig Knaus, Compliance Manager, (the "Director"), has been appointed a Director for the Purpose of issuing enforcement orders under the *Water Act*;

WHEREAS the Director is of the opinion that Beecal has contravened section 36(1) of the *Water Act*, which is an offence under section 142(1)(h) of the *Act*, by conducting the Unauthorized Activity, being stripping and infilling of wetlands on the Lands, which has resulted in the Unauthorized Activity;

THEREFORE, I, Craig Knaus, Director, pursuant to section 135(1) and 136(1) of the *Water Act*, HEREBY ORDER THAT:

1. Due to Beecal's April 8, 2021 letter identifying their inability to utilize options a thru c, the Parties must replace 2.2659 ha of wetland area by paying wetland restoration service fees to the AEP Wetland Replacement Program in accordance with the Compliance Wetland Program to compensate for the Impacted Wetlands at a 2:1 ratio at a compensation rate of \$17,700.00 per ha, resulting in \$84,223.50 (GST included), to paid to the Wetland Replacement Program Dedicated Revenue Initiative.
2. The application to pay restoration fees to the AEP Wetland Replacement Program must include a Shape file that is geo-referenced for the 2.2659 ha area of the impacted wetland.
3. Payment as described in Clause 1, must be completed within 30 days of the issuance date of this Order.
4. Within 7 days of receiving confirmation of payment receipt acceptance, Beecal will provide the confirmation to the Director.

DATED at CALGARY in the Province of Alberta, this 5th day of MAY, 2021.



Craig Knaus
Director, South Region

Section 115 of the *Water Act* may provide a right of appeal against this decision to the Alberta Environment Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 115 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 other necessary approvals or authorizations required to comply 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 or any other legislation.