

WATER ACT

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

ENFORCEMENT ORDER NO. EO-WA-35419-02

William and Valerie Bundy
Box 84
Wembley, Alberta T0H 3S0

WHEREAS William and Valerie Bundy (the "Bundys") are the registered owners of lands legally described as SW-30-071-07-W6M, in the County of Grande Prairie No. 1, in the Province of Alberta (the "Lands");

WHEREAS on December 21, 2018, the Alberta Energy Regulator ("AER") issued *Water Act* approval 1000430 to Pipestone Oil Corporation ("Pipestone") to construct a water body on the Lands;

WHEREAS *Water Act* approval 1000430 was issued to Pipestone according to the plan submitted with their application and is represented as Appendix A in this order;

WHEREAS the purpose of the approved water body is to facilitate oil and gas operations located to the east on the Lands and would be kept separate from interacting with any other water bodies on the Lands;

WHEREAS on September 18, 2020, AER staff conducted a site visit and observed the following:

- The earthen partition separating the approved water body from an existing dugout on the Lands had been removed, causing an unauthorized deviation as represented in Appendix A;
- The deviation caused Pipestone's approved water body to increase in area from 5000 metres squared to about 8300 metres squared, as represented by A01-001 in Appendix B of this order;
- In conjunction to the partition being removed, another water body, represented as A01-002 in Appendix B of this order ("the Eastern Expansion"), was created to the east of the approved water body and adjoined to A01-001 by a constructed canal;
- The Eastern Expansion that was constructed held a volume greater than 2500 cubic metres;
- The Eastern Expansion had also disturbed a wetland;

WHEREAS on November 24, 2020, AER staff reported the discovery of unauthorized activities on the Lands to the Alberta Environmental and Dangerous Goods Emergencies reporting hotline;

WHEREAS on April 26, 2021, an Alberta Environment and Parks ("AEP") Environmental Protection Officer ("EPO") inspected the Lands and flew a Remotely Piloted Aircraft System to obtain aerial imagery and observed the following:

- The Eastern Expansion was verified to be east of A01-001 and measured 1.21 hectares;
- A wetland 0.3 hectares in size, (the "Impacted Wetland") represented as A01-003 on Appendix B in this order, was verified south of the Eastern Expansion;

WHEREAS on April 26, 2021, the EPO collected a statement from William Bundy who said the following:

- In 2019 and 2020, he hired an excavator and operator, and directed them to construct the Eastern Expansion;
- He was not aware that he needed an approval to construct a water body over 2500 cubic metres;
- He has experience constructing many water bodies while working for Alberta government

agencies;

- Part of the area the Eastern Expansion now occupies was low lying and often wet, and could only be farmed occasionally;

WHEREAS an AEP Wetland Specialist conducted a review of historical air photos of the Lands on May 4, 2021 and advised the AEP EPO that the Impacted Wetland had been disturbed by unauthorized activities;

WHEREAS on June 6, 2021, AEP EPOs investigated the Lands and observed the following:

- Soils had been disturbed and an area of the Impacted Wetland had been infilled;
- The Impacted Wetland had little surface vegetation growing in the area that had been infilled;
- The Impacted Wetland had a higher elevation than the adjacent, undisturbed surrounding area as a result of infilling;
- The soil horizons had admixed as a result of the infilling;

[hereinafter, collectively referred to as the "Unauthorized Activities"]

WHEREAS on June 6, 2021, William Bundy told AEP staff the following:

- The Impacted Wetland had its topsoil removed;
- The excavated soil from the constructed Eastern Expansion was placed on the top of the Impacted Wetland;
- The soil from the Eastern Expansion that was placed on the Impacted Wetland was a mix of soil, ice, and snow, which melted and resulted in compaction;

WHEREAS on March 4, 2022, Enforcement Order WA-EO-35419 was issued to The Bundys;

WHEREAS the area of the Eastern Expansion and the Impacted Wetland is a wetland in accordance with the Alberta Wetland Classification System (the "Wetland") (Alberta Wetland Classification System, AEP, June 1, 2015);

WHEREAS the Wetland is a "water body" under section 1(1)(ggg) of the *Water Act*;

WHEREAS the construction of the Eastern Expansion and the Impacted Wetland are each an "activity" as defined in section 1(1)(b)(i)(A) of the *Water Act*, namely removing or disturbing ground, vegetation or other material in or on any land, water or water body that causes, may cause or may become capable altering the flow or level of water or changes the location of water or direction of flow;

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

WHEREAS AEP has never received an application from nor issued an approval to the Bundys or to anyone else to conduct the Unauthorized Activities, and the Unauthorized Activities are not otherwise authorized under the *Water Act*;

WHEREAS The Bundys are a "person responsible" for the Unauthorized Activities pursuant to section 1(1)(kk) of the *Water Act*;

WHEREAS Jack McNaughton, Compliance Manager, North Region, has been appointed as Director for the purposes of issuing enforcement orders under the *Act* (the "Director");

WHEREAS the Director is of the opinion that the Unauthorized Activities are a contravention of Section 36(1) of the *Water Act*;

THEREFORE, I, Jack McNaughton, the Director, pursuant to sections 135(1) and 136(1) of the *Water Act*, DO HEREBY ORDER THAT:

1. The Bundys shall continue to satisfy the requirements in Clauses 1 through 3 of Enforcement Order EO-WA-35419;
2. Following the completion of Clause 3 of Enforcement Order EO-WA-35419, The Bundys may, in lieu of completing Clauses 4 through 8 of Enforcement Order EO-WA-35419, determine the total area of the Impacted Wetland in hectares based upon the Wetland Assessment Report submitted as per EO-WA-35419;
3. The Bundys must replace the total area of Impacted Wetland by selecting one of the following remedial actions:
 - a. Restore the Impacted Wetlands to their respective conditions prior to the Unauthorized Activities, including wetland area, 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 as those lost as a result of the Unauthorized Activities;
 - c. Retain a third party wetland replacement agent to meet the remedial requirements of the Bundys to replace the Impacted Wetlands at a 3:1 ratio within Relative Wetland Value Assessment Unit 12;
 - d. Pay wetland replacement service fees to the AEP Wetland Replacement Program by December 7, 2022 to compensate for the Impacted Wetlands at a 8:1 ratio at a compensation rate of \$18,500 per hectare;
 - e. Following completion of Clause 4(a) of Enforcement Order EO-WA-35419, pay wetland replacement service fees to the AEP Wetland Replacement Program by December 7, 2022 to compensate for the Impacted Wetlands at a ratio to be determined by the Director at a compensation rate of \$18,500 per hectare.
4. On or before December 7, 2022, the Bundys must submit to the Director for the Director's written approval a Remedial Plan indicating the remedial action selected as per Clause 3 of this Order, including:
 - a. all plans the Bundys have proposed to meet Clause 3(a) or (b) of this Order, including a detailed Wetland Restoration Plan outlined in Clause 4 of Enforcement Order EO-WA-35419; or
 - b. any agreements signed with a third party wetland restoration agent to meet Clause 3(c) of this Order; or
 - c. confirmation of agreement to pay the AEP Wetland Replacement Program a service fee of \$28,120 for the replacement of 0.38 ha of wetland area based upon the average replacement cost per hectare at a ratio of 4:1 as determined by the Director, as a result of the Unauthorized Activities on the Impacted Wetlands.
5. The Bundys shall only complete the actions described within the Remedial Plan in accordance with the Director's written authorization.
6. Where a deadline or reporting frequency has been specified in this Order, the Director may authorize in writing a different deadline or reporting frequency as applicable without amending the Order.

DATED at Peace River in the Province of Alberta, this 5th day of October, 2022.

Acting for: A. Sandford
Jack McNaughton, Director
Compliance Manager
North Region, Boreal West District

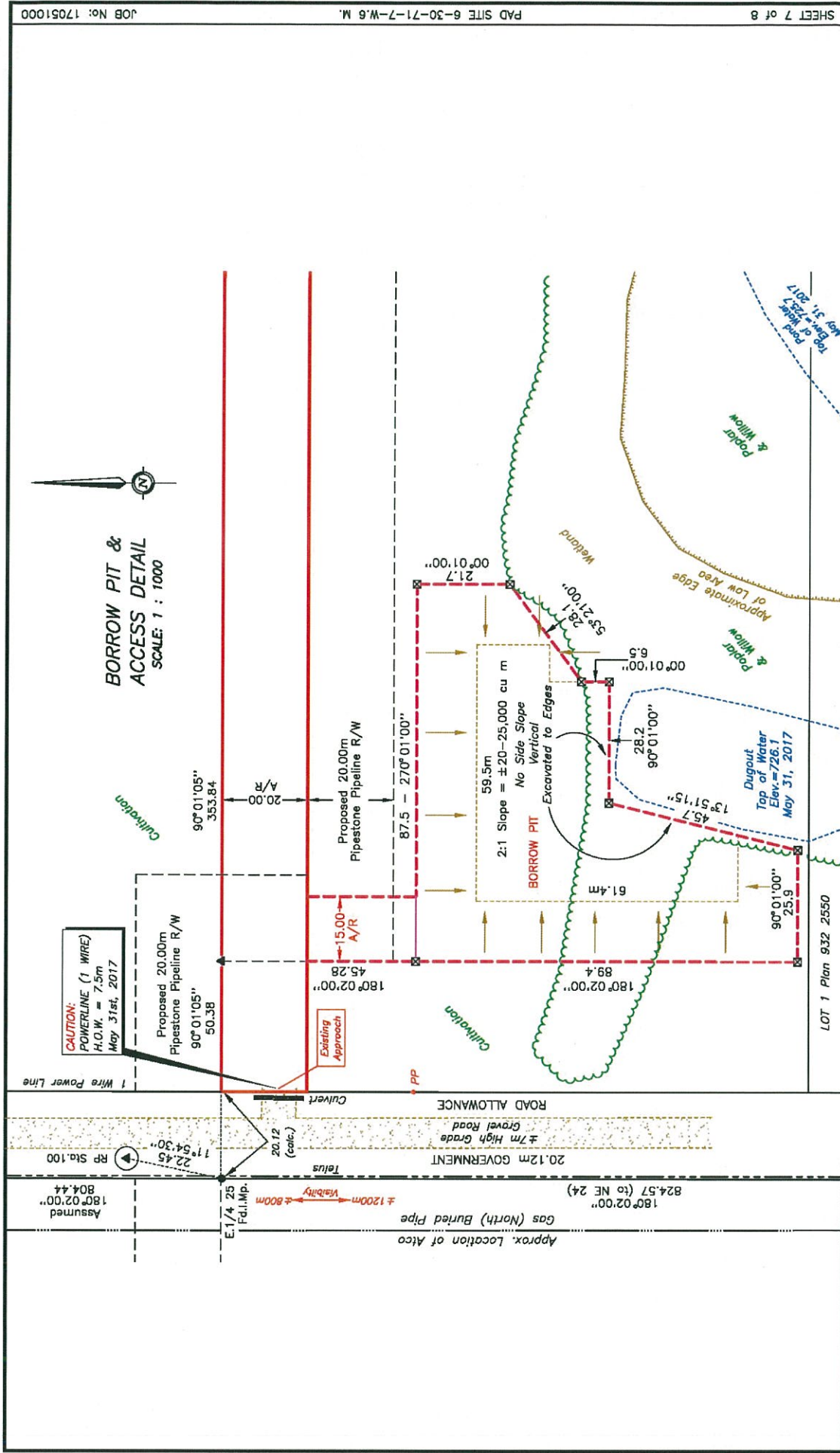
Section 115 of the *Water Act* may provide a right of appeal against this decision to the Alberta Environment Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 115 is enclosed.

**For further information, please contact the Board Secretary at: Alberta Environmental Appeals Board
30 6 Peace Hills Trust Tower, 10011-109 Street, Edmonton,
Alberta, TSJ 3S8
Telephone 780-427-6207; Fax 780-427-4693.**

Notwithstanding the above requirements, the Party 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 the *Water Act* or any other legislation.

Appendix A



Appendix B

