

WATER ACT

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

ENFORCEMENT ORDER NO. WA-EO-35419

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 to 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 m² to about 8300 m² as represented as A01-001 in Appendix B of this order;
- In conjunction to the partition being removed, another water body as 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 m³;
- 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 EDGE Environmental Reporting Hotline;

WHEREAS on April 26, 2021, an Alberta Environmental 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 ha;
- A 0.3 ha wetland ("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 m³;
- 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 on June 6, 2021, AEP EPOs investigated the Lands, dug soil pits for analysis, and observed the following:

- The Impacted Wetland had little surface vegetation growing;
- The Impacted Wetland had a higher elevation than the adjacent, undisturbed surrounding area;
- The soil pits showed no soil horizon development and that the soil horizons had admixed;

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 resulting in compaction;

WHEREAS the area of the Eastern Expansion and the Impacted Wetland is a wetland and based on desktop delineation, aerial imagery, and in accordance with the Alberta Wetland Classification System, appears to be a shallow open water and marsh wetland complex (the "Wetland") (Alberta Wetland Classification System, AEP, June 1, 2015);

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 the construction of the Eastern Expansion and the Impacted Wetlands 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 the EPO confirmed that a *Water Act* approval for the said activities on the Lands (herein referred to as the "Unauthorized Activities") was not issued;

WHEREAS the Wetland is a "water body" under section 1(1)(ggg) of 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, Boreal West District (the "Director") has been appointed as Director for the purposes of issuing enforcement orders under the *Act*;

WHEREAS the Director is of the opinion that the Unauthorized Activities have, may, or become capable of:

- Altering the flow or level of water on the Lands;
- Changing the location of water on the Lands;
- Causing siltation of water or the erosion of the bed or shore;
- Causing an adverse effect on the aquatic environment.

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. With the exception of satisfying the requirements in Clause 4 of this Order, the Bundys shall immediately cease all unauthorized activity in or on the Lands;

2. The Bundys shall on or before March 25, 2022, submit to the Director in writing all of the following information;
 - a. the name of an Authenticating Professional that meets each of the requirements of section 4.0 of "Professional Responsibilities in Completion and Assurance of Wetland Science, Design and Engineering Work in Alberta" (Government of Alberta, May 1, 2017) (the "Authenticating Professional");
 - b. a summary of how the Authenticating Professional meets the requirements of Clause 2(a);
3. The Bundys shall on or before June 15, 2022 submit to the Director for the Director's written approval, a written Wetland Assessment Report (the "Wetland Assessment Report"), prepared, stamped, and signed by the approved Authenticating Professional, which will include, at minimum, assessments of the following:
 - a. The condition of the Impacted Wetland and Eastern Expansion area prior to the Unauthorized Activities, including all of the following:
 - i. Delineation of the wetland boundary;
 - ii. classification, determined in accordance with the "Alberta Wetland Classification System" (Government of Alberta, June 1, 2015);
 - iii. landscape characteristics, including topography and slopes;
 - iv. hydrology;
 - v. soils;
 - vi. vegetation;
 - b. The changes the Unauthorized Activities had on the Lands and hydrology of the Impacted Wetland and the Eastern Expansion;
 - c. Whether current site conditions will accurately reflect wetland value generated from an Alberta Wetland Rapid Evaluation Tool – Actual (AABWRET-A) assessment (Government of Alberta, 2015);
4. The Bundys shall within thirty days of receiving written approval from the Director for the Wetland Assessment Report, submit to the Director in writing for the Director's approval, a written Wetland Restoration Plan (the "Wetland Restoration Plan"), prepared, stamped and signed by the Authenticating Professional that includes, at minimum, the following:
 - a. a detailed plan to restore the Impacted Wetland and the Eastern Expansion areas to conditions prior to the Unauthorized Activities, which includes determining the following:
 - i. wetland size;
 - ii. wetland classification;
 - iii. topography and slopes;
 - iv. soils;
 - v. hydrology, including a statement certifying no impacts to upstream or downstream landowners will occur during implementation of the Wetland Restoration Plan;
 - vi. vegetation;
in and around the Wetland;

(hereinafter referred to as the Restored Wetland)
 - b. a complete list of the types of:
 - i. equipment that will be used in the implementation of the Wetland Restoration Plan;
 - ii. methods of soil salvage, grading, sloping, and/or the requirement to obtain donor soils and their location of origin;
 - iii. re-vegetation techniques including methods of planting and establishment;
that will be used in the implementation of the Wetland Restoration Plan;
 - c. a detailed description of the measures to prevent all types of erosion including siltation of water, or the wasting of soils into or onto:
 - i. the Restored Wetland;

- ii. all other water bodies;
 - iii. lands and vegetation adjacent to the above areas;
during all of the work carried out in the implementation of the Wetland Restoration Plan;
 - d. a detailed plan to monitor the Restored Wetland (the "Restored Wetland Monitoring Plan") following the completion of the Wetland Restoration Plan including, at minimum:
 - i. the methods that will be used to assess vegetation, soils and hydrological function in determining restoration success;
 - ii. a proposed monitoring schedule including the time of year monitoring is completed and monitoring frequency;
 - e. a schedule of implementation for the work proposed in the Wetland Restoration Plan excluding the proposals required in the Clause 4(d) of this Order, with a completion date of no later than July 31, 2022;
5. The Bundys shall only complete the work described in the Wetland Restoration Plan and Restored Wetland Monitoring Plan in accordance with the Director's written authorization;
6. The Bundys shall provide the Director notice within five days following completion of the Wetland Restoration Plan;
7. The Bundys shall after seven days of the completion of the Wetland Restoration Plan provide to the Director a written report prepared, stamped, and signed by the Authenticating Professional that describes the work undertaken to comply with the Wetland Restoration Plan of this Order. The written report shall include at minimum representative photographs and descriptions of the measures implemented associated with Clauses 4;
8. The Bundy's shall after seven days of the completion of the Restored Wetland Monitoring Plan provide to the Director a written report prepared, stamped, and signed by the Authenticating Professional that describes the work undertaken to comply with the Restored Wetland Monitoring Plan and shall include at minimum the following:
 - a. The monitoring work undertaken;
 - b. Data collected;
 - c. Relevant observations;
 - d. Representative photographs with descriptions;
9. 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 4th day of March, 2022.



Jack McNaughton, Director
Compliance Manager
North Region, Boreal West District

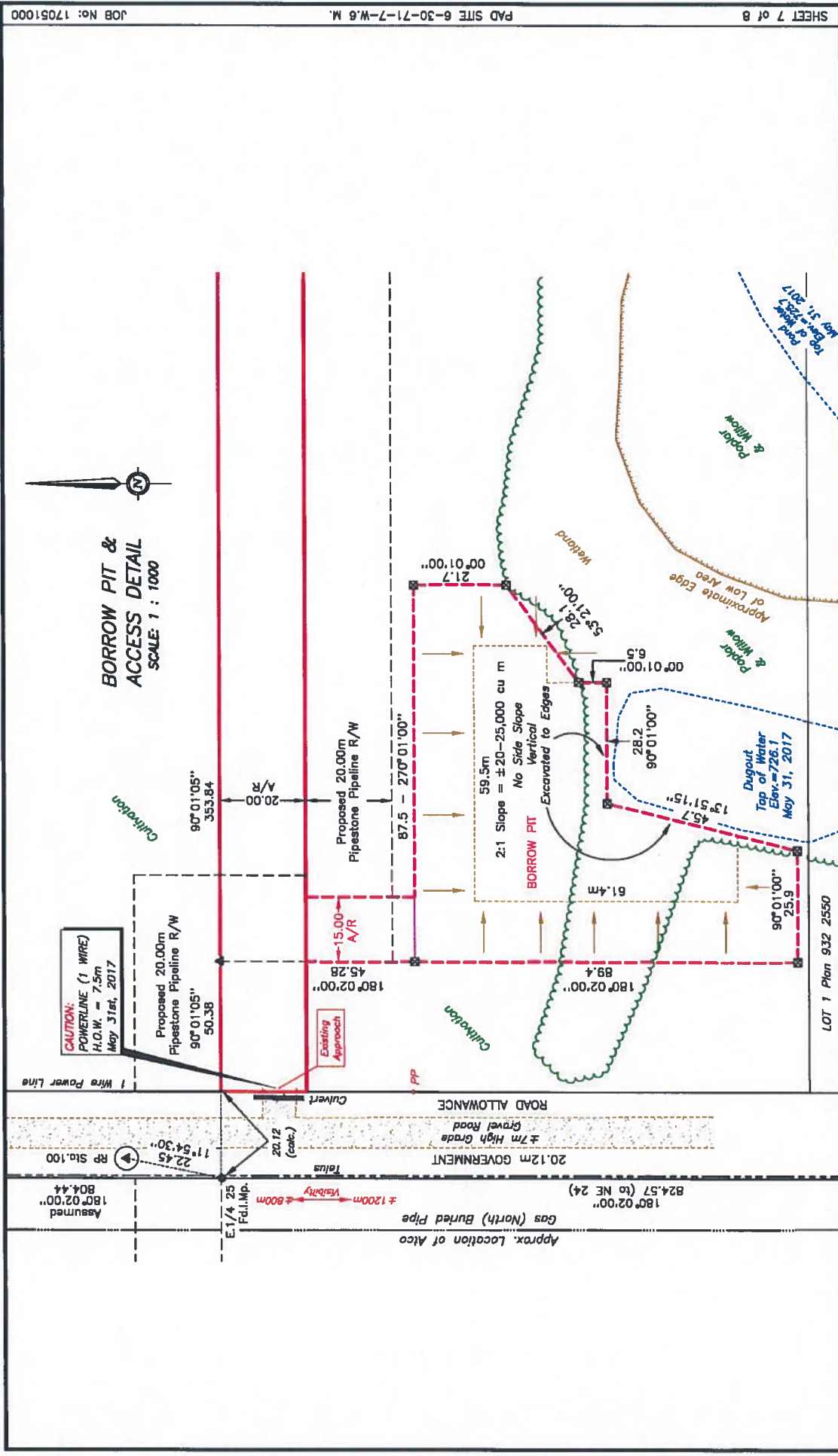
Section 115 of the *Water Act* may provide a right of appeal against this decision to the Alberta Environment Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 115 is enclosed.

**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

