

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING CHAPTER E-12 R.S.A. 2000 (the "Act")

ENFORCEMENT ORDER No. EO-EPEA-38679

Clover Bar Sand & Gravel Ltd.  
10614 124 St NW  
Edmonton, AB  
T5N 1S3

**The Regulated Party – Clover Bar Sand & Gravel Ltd.**

**WHEREAS** Clover Bar Sand & Gravel Ltd. ("CBSG") operates a pit (the "Clover Bar Pit") under Registration No. 00015950-02-00 at NW 20-53-23 W4M (the "Lands") in the City of Edmonton, Alberta;

**WHEREAS** the document titled "Environmental Protection and Enhancement Act (EPEA) EPEA Code of Practice for Pits, Clover Bar Pit (NW 20-053-23 W4M)" dated May 2010 (the "Activities Plan"), was submitted by CBSG as part of the Clover Bar Pit's EPEA Code of Practice for Pits Registration Application to AEP;

**WHEREAS** Capital Aggregate Recycling Ltd. is the registered landowner of the Lands on which the Clover Bar Pit is located;

**WHEREAS** Bruce Keltie is the sole Director of both CBSG and Capital Aggregate Recycling Ltd.;

**June 23, 2022 Inspection of the Clover Bar Pit and Request for Documents**

**WHEREAS** on June 21, 2022, an Alberta Environment and Parks ("AEP") Environmental Protection Officer ("Officer") sent a letter via email to Mr. Keltie and CBSG's lawyer (the "Lawyer"), that stated that AEP Officers (the "Officers") would attend the Clover Bar Pit on June 23, 2022, at 10:00 am and would be exercising their authorities under section 198 of the Act;

**WHEREAS** on June 22, 2022, the Lawyer sent a letter on behalf of CBSG, via email, to the Officer that stated "The only documents you are entitled to request are the documents that my client holds under his AEP approval. Those documents are limited to the approval document itself and the water testing for the water retention ponds. You are not authorized to request and seize any other documents as a matter of Alberta law";

**WHEREAS** on June 23, 2022, the Officers conducted a site inspection of the Clover Bar Pit and compared it against the Activities Plan. During the inspection, the Officers observed:

- that two end pit lake (ponds) identified in the Activity Plan (Figure 4 - "Reclaimed Conditions") were not present in the reclaimed areas and the topography of these areas appeared to be flat,
- a separate end pit lake location identified in the Activity Plan (Figure 3 - "Mining Plan") was partially infilled with fill material,

- fill material imported to the Clover Bar Pit admixed with degraded concrete pieces, degraded cement pieces, broken plastic tube, various diameter black rubber plastic tube sections, yellow plastic tube sections, various diameter blue plastic tube sections, various diameter green plastic tube sections, degraded geotextile, plastic bags, degraded plastic material, yellow foam pieces, rope, broken pylon, broken roadside barrier, sections of plastic pails, plastic membrane pieces, pieces of snow fence, erosion control fencing sections, broken ceramic pipe pieces, tires on and off the rim, tree trunks, tree and shrub roots, tree and shrub branches, pieces of plywood, pieces of broken lumber, bricks, metal grates, metal water valve cap within the fill material ("June 23 Waste") in the "Bare Area South", "Bare Area Northeast" and "Bare Area West" and throughout the Lands;

**WHEREAS** the location of the June 23, 2022 site observations of the end pit ponds, Bare Area South, Bare Area Northeast and Bare Area West are shown in Appendix A Figure 1.

**WHEREAS** upon completing the inspection, the Officer requested access to the site trailer from a representative of CBSG based on the Officer's authorities under Section 198 of EPEA;

**WHEREAS** the CBSG representative refused access to the site trailer and indicated he would not communicate with the Officers without the Lawyer present;

**WHEREAS** during the June 23, 2022 inspection, the Officer requested the CBSG representative's assistance as required under Section 209 of the Act;

**WHEREAS** during the inspection, the Officer requested the production of documents under Section 198(1)(d) and 198(1)(i) of the Act. The documents were related to the "clean" material brought to the Lands under Section 5.2.2 of the *Code of Practice for Pits* (the "Code") and records of the location, quantity, and depth of the "clean" material brought to the Lands under Section 5.2.3 of the Code (the "Documents");

**WHEREAS** the CBSG representative responded to the Officer's request by stating that he "could not talk to us without his lawyer present" and he ignored the Officer's requests. The Officer stated that he required CBSG to produce the requested documents by Thursday, July 14, 2022;

**WHEREAS** on June 23, 2022, the Lawyer sent a letter via email, on behalf of CBSG, to the Officer, which stated that "I am further advised that you demanded documents in the form of any scale tickets. I will again remind you that neither AEPEA nor any other applicable law gives you the authority to demand scale tickets. There is no requirement under the AEPEA approval for this site for scale tickets to be collected and provided to you. You are entitled to a copy of the AEPEA approval and the water pond testing results";

**WHEREAS** on June 27, 2022, the Officer sent a copy of the June 23, 2022, Inspection Report, via email, to Mr. Keltie, which summarized the Officers' observations from the June 23, 2022 inspection. In the covering letter (dated June 23, 2022) for the inspection report the Officer requested the Documents be produced to him by July 14, 2022;

**WHEREAS** on June 27, 2022, the Officer sent a letter, via email, to the Lawyer to clarify facts and allegations in the Lawyer's June 23, 2022 letter;

**WHEREAS** on July 15, 2022, CBSG had not provided the Documents to the Officer by the deadline;

### **August 9, 2022 inspection of the Clover Bar Pit and other Locations and Request for Documents**

**WHEREAS** on August 9, 2022, the Officers conducted a follow-up site inspection of the Clover Bar Pit and observed:

- two bare areas (Bare Area South and Bare Area Northeast) observed in the June 23, 2022 site inspection with the imported fill material present,

- one new bare area (“Bare Area North”) with mounded imported fill material present that was not observed during the June 23, 2022 inspection,
- one bare area (Bare Area West) with no new imported fill material present but the material was admixed with degraded plastic bags and pieces of plastic buckets,
- fill material imported to the Clover Bar Pit admixed with degraded concrete pieces, sections of cement riser ring from manholes, degraded cement pieces, broken blue water plastic tubes, various diameter black rubber plastic tube sections, broken white plastic tube, plastic signage, degraded geotextile, plastic bags, degraded plastic material, broken white roadside delineator, sections of broken plastic pails, landscape plastic edging pieces, plastic membrane pieces, sections and pieces of snow fence, erosion control fencing sections, parts of hockey skate boots, broken ceramic pipe pieces, tires, tree trunks, tree and shrub roots, tree and shrub branches, pieces of plywood, pieces of broken lumber, broken shovel, fake brick siding, bricks, metal brackets, metal pipe, a metal tooth from a machinery bucket, metal pin flags, metal engine block pieces, and a metal fire hydrant pipe within the fill material (“August 9 Waste”) in the Bare Area South, Bare Area Northeast, and Bare Area North,
- active importation of material to the Lands deposited by trucks and spread by a bulldozer and front end loader, and
- no screening of imported material by CBSG representatives at the gate or when the imported material was deposited and spread by a bulldozer and front end loader;

**WHEREAS** the location of the August 9, 2022 site observations of the Bare Area South, Bare Area Northeast and Bare Area North are shown in Appendix A Figure 2.

**WHEREAS** on August 9, 2022, the Officer requested the CBSG representative’s assistance based Section 209 of the Act. The Officer requested the production of documents under Section 198(1)(d) and 198(1)(i) of the Act. The documents were related to the “clean” material brought to the Lands under Section 5.2.2 of the Code and the location, quantity, and depth of the “clean” material brought to the Lands under Section 5.2.3 of the Code. The CBSG representative responded that CBSG would provide the requested documentation by “end of day” on August 9, 2022. The CBSG representative told the Officer that #218, 10458 Mayfield Road in Edmonton is the main office of CBSG, which is also the address listed on the Corporate Registry System as the address for Mr. Keltie in his capacity as sole Director of CBSG (“CBSG Office”);

**WHEREAS** on August 9, 2022, the Officer received an email message chain from CBSG via email. The email chain originated from an AEP Approvals Team Lead on November 16, 2021 (the “November 16, 2021 Email”), which was addressed to Mr. Keltie. In the email chain, the AEP Approval Team Lead indicated to Mr. Keltie that the most recent version of CBSG’s five-year report, required under the Code, was received and reviewed by AEP. This email message chain was not responsive to the Officer’s request for the production of documents as no information was provided about the material brought to the Lands, or the location, quantity, and depth of the clean material brought to the Lands;

**WHEREAS** on August 10, 2022, the Officers attended the CBSG Office to enter and inspect and request the production of documents under Sections 198(1)(d) and 198(1)(i) of the Act. The Officers observed that the CBSG Office was vacant. While the Officers attended the CBSG Office, a tenant in the same office complex advised them that the tenant observed people removing boxes and office equipment from the CBSG Office the week prior;

**WHEREAS** on August 10, 2022, the Officers also attended 10614 124 Street NW in Edmonton, which is listed as the Registered Office, Records Address and Mailing Address of CBSG on the Corporate Registry System, to enter and inspect and request the production of documents under Sections 198(1)(d) and 198(1)(i) of the Act. A person in the office advised the Officers that the requested documents were not stored there;

**WHEREAS** on August 12, 2022, the Officer sent a copy, via email, of the August 9, 2022 Inspection Report to Mr. Keltie, which summarized the Officers' observations from the August 9, 2022 site inspection. In the covering letter for the inspection report, the Officer confirmed the documents that he had requested from the representative of CBSG during the August 9, 2022 site inspection and confirmed the documents that he had requested from CBSG listed registered office and an address listed as CBSG office on August 10, 2022. The cover letter also confirmed the August 17, 2022 deadline for producing them.

**WHEREAS** on August 17, 2022, the Lawyer, provided a letter to the Officer, via email, that stated, among other things:

- “the only documents on your list that those legal instruments require Clover Bar to maintain are documents that record the location, quantity, and depth of materials that are received into the pit in accordance with the most recent Activities Plan. Clover Bar’s most recent Activities Plan was complied with when Clover Bar provided to AEP its October 6, 2019 report.”
- “Clove[r] Bar takes exception to your characterizations regarding the very small amounts of woody and plastic garbage described in your letter. Woody and plastic debris is not accepted at the Clover Bar location as suitable reclamation material.”
- “The allegation that no Clover Bar personnel were present to screen reclamation material as it entered the site is incorrect. The Clover Bar personnel at the reclamation site are empowered with screening responsibilities as well as our senior personnel at the entrance.”;

**WHEREAS** on August 18, 2022, CBSG had not provided the requested documents to the Officer by the deadline;

#### **Clarification of the nature of AEP’s review of Clover Bar’s October 9, 2019 Five-year report**

**WHEREAS** on August 25, 2022, the Officer contacted, via email, the AEP Approvals Team Lead who sent the November 16, 2021 Email to Mr. Keltie. The Officer asked the AEP Approval Teams Lead to clarify:

- which report was received and reviewed on November 16, 2021, and
- what he meant by “reviewed” in the November 16, 2021 Email;

**WHEREAS** on August 26, 2022, the Officer received an email response from the AEP Approvals Team Lead, which confirmed:

- the report that was received and reviewed was the “Clover Bar Sand and Gravel Ltd. – 5-Year Report & Security Estimate” dated October 6, 2019, as per the November 16, 2021 Email, and
- that the report is reviewed to confirm adequate security is currently posted. The review process also ensures that all information specified in the Schedule 4, Part 1 of the Code is provided to AEP as required under the Code.

**WHEREAS** on August 29, 2022, the Officer sent a letter, via email, to the Lawyer to clarify the nature of AEP’s review of the Clover Bar’s October 9, 2019 Five-year report;

#### **October 5, 2022 Site Inspection of Clover Bar Pit**

**WHEREAS** On October 5, 2022, the Officers conducted a follow-up site inspection on the Clover Bar Pit and observed:

- two bare areas (Bare Area South and Bare Area Northeast) observed in the June 23, 2022, and August 9, 2022 Site Inspections with the imported material present,
- two bare areas (Bare Area North and Bare Area Northeast) identified in the August 9, 2022 site inspection were incorporated into one bare area (Bare Area Northeast),

- one bare area (Bare Area West) with no imported material present,
- fill material imported to the Clover Bar Pit admixed with degraded cement pieces, bricks, asphalt pieces, cement plugs from fence poles, cement plugs from fence pole with metal post, pin flags, flagging tape, sections of degraded landscape fabric, degraded geotextile pieces, degraded and buried plastic bags, plastic jug, broken pieces of random plastic, snow fence, white road delineator, broken clay pipe piece, broken green and blue water pipe pieces, white plastic tube pieces, buried black plastic tube, red plastic tubing, buried bungie cord, blue pipe wrap, plastic vacuum tube, metal rebar pieces, metal pipe pieces, sections of wire with plastic coating, fence wire, metal wire guards, bent metal fence and sign posts, metal strapping, broken shoe, broken lumber, and woody debris present within the fill material, (“October 5, Waste”) in the Bare Area South and Bare Area Northeast;
- grey material with gravel was present south of Bare Area South,
- debris pile present east of Bare Area South,
- active importation of material to the Lands deposited by trucks and spread by an excavator, bulldozer and front end loader,
- CBSG representatives at the gate was observed screening one truck,
- No screening observed when import material was deposited or spread a bulldozer and front end loader, and
- a CBSG representative was observed removing debris after an officer documented the debris on the Lands;

**WHEREAS** the location of the October 5, 2022, site observations of the Bare Area South and the Bare Area Northeast are shown in Appendix A Figure 3;

**WHEREAS** on October 12, 2022, the Officer sent a copy, via email, of the October 5, 2022 Inspection Report to Mr. Keltie, which summarized the Officers’ observations from the October 5, 2022 site inspection;

**WHEREAS** on October 12, 2022, the Officer received an email response from the AEP Approvals Team Lead, which confirmed his team has not received any submissions from CBSG for the Clover Bar Pit to date;

**Requirements in the *Code of Practice for Pits* – Sections 2.1.1, 5.2.1, 5.2.2, 5.2.3, 6.1.10**

Requirement to Comply with the Code

**WHEREAS** the Code Section 2.1.1 requires that “any person who carries out an activity at a pit must do so in accordance with this Code of Practice”;

**WHEREAS** an “activity at a pit” is defined in Section 1.1.2(d) of the Code to mean the construction, operation, or reclamation of a pit;

Prohibition on burying waste or woody debris

**WHEREAS** the Code Section 5.2.1 states “no person shall bury at any pit any:

- (a) waste; or
- (b) woody debris.”;

**WHEREAS** “waste” is defined in Section 1.1.2(x) of the Code to mean “any solid or liquid material or product or combination of them

- (i) that is intended to be treated or disposed of, or

- (ii) that is intended to be stored and then treated or disposed of”;

**WHEREAS** “woody debris” is defined in Section 1.1.2(y) of the Code to mean “any portions of live or dead trees or shrubs, including but not limited to roots, trunks, and branches”;

#### Restrictions on Materials for Reclamation

**WHEREAS** the Code Section 5.2.2 states “No person shall use any material other than topsoil, subsoil, overburden, or reject excavated from a pit for reclamation of that pit:

- (a) except in accordance with the most recent Activities Plan authorized in writing by the Director; and
- (b) unless the written consent of all current registered owners of the parcel or parcels on which the material will be used has been obtained for the use of the material for reclamation at the pit.”

**WHEREAS** “topsoil” is defined in in Section 1.1.2(v) the Code to mean “the uppermost layers of soil at the pit that consist of:

- (i) all of the L, F, H, and A horizons, and
- (ii) the O horizon to a maximum depth of 40 centimetres;”

**WHEREAS** “subsoil” is defined in in Section 1.1.2(t) of the Code to mean means “the layer of soil at the pit directly below the topsoil, to a maximum depth of 1.2 metres below the topsoil surface, that consists of the B and C horizons as defined in *The System of Soil Classification for Canada*, published by Agriculture and Agri-Food Canada, 1998, Publication 1646, 3rd edition, as amended or replaced from time to time”;

**WHEREAS** “overburden” is defined in in Section 1.1.2(j) of the Code to mean means “soil or geological material at the pit, but does not include:

- (i) topsoil,
- (ii) subsoil,
- (iii) aggregate, or
- (iv) reject”;

**WHEREAS** “reject” is defined in in Section 1.1.2(p) of the Code to mean “aggregate that is expected to be unsuitable for use as a product, or for blending with other aggregate to form a product, and is therefore expected to be used for reclamation of the pit”;

**WHEREAS** Section 3.1 of the Activities Plan stated “Clover Bar had received approval through the City of Edmonton and Development Permit Application No. 91005262 on October 4, 1991. This approval allowed for the development of a natural resource including: the excavation of sand and gravel, the stockpiling of on-site material to be utilized for fill during reclamation, **the stockpiling of clean off-site dry fill, limited to topsoil, clay, asphalt and concrete** [emphasis added] and the recontouring of the site.”;

**WHEREAS** Section 4.4 of the Activities Plan stated “following completion of Pit excavations in the northwest and northeast, water bodies will be constructed in the reclaimed landscape. The water bodies will be constructed with an irregular perimeter and graded rough surfaces to mimic natural shorelines, promoting waterfowl habitat.”;

#### Requirement to record the location, quantity and depth of materials use for reclamation

**WHEREAS** Section 5.2.3 of the Code states “the registration holder shall record the location, quantity, and depth of the materials described in 5.2.2.”;

## Requirement to Provide Information when Requested

**WHEREAS** Section 6.1.10 states that “Any person who is required to establish or record any information pursuant to this Code of Practice shall, upon request by an inspector or the Director, provide the information requested within 7 days or any other time period specified by the inspector or the Director.”

### **Clover Bar Contravened the Code of Practice**

**WHEREAS** despite repeated requests from AEP, CBSG has failed to produce the required records that demonstrate the location, quantity, and depth of the materials used for reclamation that are required to be kept under the Code, which is a contravention of Sections 2.1.1, 5.2.3, and 6.1.10 of the Code;

**WHEREAS** during June 23 and August 9, 2022 inspections of the Clover Bar Pit, the Officers observed unauthorized material admixed within the fill material in locations around the pit, which is a contravention of Sections 2.1.1, 5.2.1 and 5.2.2 of the Code;

**WHEREAS** during the August 9, 2022 inspection of the Clover Bar Pit, the Officers did not observe any screening by CBSG of offsite material being accepted, placed, and buried on site, and that third party offsite material was being imported and deposited onsite and was admixed with unauthorized material such as woody debris and waste, which is a contravention of Sections 2.1.1, 5.2.1 and 5.2.2 of the Code;

### **Contraventions of the Code of Practice are contraventions of the Act**

**WHEREAS** Section 83.1 of the Act states “No person shall commence or continue any activity that is

- (a) designated by the regulations as requiring a registration, and
- (b) governed by a code of practice except in accordance with that code of practice.”;

**WHEREAS** Maxwell Harrison, Compliance Manager, Northern Region, has been designated as a Director for the purpose of issuing Enforcement Orders under the Act;

**WHEREAS** the Director is of the opinion that CBSG has contravened Section 83.1 of the Act by contravening Sections 2.1.1, 5.2.1, 5.2.2, 5.2.3, and 6.1.10 of the Code;

**THEREFORE**, I, Maxwell Harrison, Director, pursuant to Section 210(1)(d) and (e) of the *Environmental Protection and Enhancement Act* HEREBY ORDER THAT:

1. CBSG shall immediately suspend receiving any material to the Lands until the requirements in clauses 2 to 7 of this Order are completed to the satisfaction of the Director and resumption of the receipt of material to the Lands is approved in writing by the Director;
2. CBSG shall, by November 4, 2022, submit to the Director, for the Director’s written approval, the name and qualifications of a Professional who is a member in good standing with a Professional Regulatory Organization, who holds one of the designations in the *Professional Responsibilities in Completion and Assurance of Reclamation and Remediation Work in Alberta Joint Practice Standard*, as outlined in the Alberta Environmental Site Assessment Standard (the “ESA Standard”), with experience in Activities Plan preparation, environmental site assessments, remedial sampling, remedial reporting, and reclamation (the “Professional”);
3. CBSG shall submit to the Director, for the Director’s approval, a written site assessment plan for the Lands (the “SA Plan”) by December 2, 2022;

4. CBSG shall include in the SA Plan, at a minimum:
  - a. a detailed map for all proposed sampling locations on the Lands including depths to be assessed during site assessment;
  - b. a description of the methodology, including sampling, analytical suite, field screening and soil handling methods, in accordance with the ESA Standard, that will be applied during the site assessment;
  - c. a description of the equipment and materials that will be used in implementing the site assessment;
  - d. the removal of the June 23 Waste, the August 9 Waste, the October 5 Waste, any other fill material admixed with the types of materials contained in the June 23 Waste, the August 23 Waste and/or the October 5, 2022 Waste and any other waste as defined in Section 1.1.2(x) of the Code within and on the Lands,
  - e. the sampling and delineation for any material located within and on the Lands found to contain concentrations of any substance above the Alberta Tier 1 soil and groundwater remediation guidelines, and
  - f. a schedule of implementation for the work prescribed by the SA Plan including milestones with a completion date of no later than April 1, 2023;
5. CBSG shall implement the work prescribed by the SA Plan as approved in writing by the Director and by the schedule of implementation approved by the Director;
6. CBSG shall prepare a report detailing the results of the sampling and delineation as required by Clause 4(e) and including the inventory of all the waste removed to comply with Clause 4(d) and submit to the Director by June 2, 2023;
7. If during the implementation of the work prescribed by SA Plan, CBSG finds any material located within and on the Lands found to contain concentrations of any substance above Alberta Tier 1 soil and groundwater remediation guidelines, CBSG shall:
  - a. by no later than 7 days from the first finding of any material located within and on the Lands found to contain concentrations of any substance above Alberta Tier 1 soil and groundwater remediation guidelines, report its findings to the Director in writing, and;
  - b. prepare a plan ("Remedial Plan") for the remediation of the material found to contain concentrations of any substance above Alberta Tier 1 soil and groundwater remediation guidelines and submit the Remedial Plan to the Director for his approval by no later than 60 days of reporting set out in clause 7a.
8. CBSG shall submit progress updates to the Director on February 28, 2023, April 30, 2023, July 31, 2023 and September 30, 2023 that include a detailed summary of all the activities undertaken at the Clover Bar Pit to satisfy the requirements of clauses 2 to 5 of this Order;
9. By no later than November 30, 2023, CBSG shall submit to the Director a written completion report prepared and signed by the Professional describing the work completed to comply with this Order and shall include the required report contents outlined in Section 4.4 of the ESA Standards, at a minimum;
10. Upon written direction from the Director, CBSG shall prepare and submit a revised activities plan (the "Revised Activities Plan"), to affect compliance with the Code and therefore with the Act, to a Director of the AEP Approvals team for its review and decision.



DATED at the City of Edmonton, in the Province of Alberta, this fourteenth day of October 2022.

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Maxwell Harrison, Director  
Compliance Manager  
North Region – Capital District

**Notwithstanding the above requirements, CBSG shall obtain all other necessary approvals or authorizations required to comply with this order.**

**Take notice that this environmental order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under the *Environmental Protection and Enhancement* or any other legislation.**

# Appendix A –Figures



Figure 1. June 23, 2022 Site Observation



Figure 2. August 9, 2022 Site Observations

