



PUBLIC LANDS ACT

BEING CHAPTER P-40, RSA 2000 ("the Act")

ENFORCEMENT ORDER NO. PLA-EO-2017/03-PR

Roger Wayne Thiessen
219 Hwy 88 North, Red Earth Creek
PO Box 211
Red Earth Creek, AB T0G 1X0

Background

WHEREAS on November 25, 2003, Mr. Roger Thiessen was issued a formal disposition being Department Miscellaneous Lease No. DML920038 (the "Disposition") under the *Public Lands Act* (the "Act") on a portion of public lands legally described as NE 34-86-9-W5M, for the purposes of a horse holding area ("Site");

WHEREAS the Site is public land pursuant to the Act;

WHEREAS the Disposition included the following provisions:

6. The Lessee shall keep the said lands in a clean and attractive condition and may not allow refuse to accumulate on the said lands except as in the opinion of the Lessor may be normal to the authorized use;

Schedule A

1. 002 f) The holder shall maintain any buildings or other improvements erected or placed on the land in good and substantial repair and condition, normal wear and tear excepted;

2. 154 The holder shall contact and advise the departmental officer of its intentions:

- prior to entry upon the lands.
- prior to any additional construction during the term of this authority.
- at the completion of operations, and
- upon abandonment of this activity or cancellation of this authority.

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9. 222 The holder shall carry out interim reclamation work concurrently with operations and full reclamation prior to cancellation and abandonment. Reclamation includes debris disposal, slope stabilization, re-contouring, restoration of natural drainage(s), replacement of surface soil and vegetation.

10. 229 The holder shall maintain the land in a neat and clean condition acceptable to a departmental officer.

WHEREAS the Disposition expired on August 14, 2012,

WHEREAS the Disposition was not renewed;

WHEREAS as of November 29, 2016, Mr. Thiessen has not vacated the Site, and continues to occupy the public land;

WHEREAS Mr. Thiessen is an overholding tenant on a month-to-month basis by virtue of section 20(3) of the *Public Lands Administration Regulation* ("PLAR");

WHEREAS on September 28, 2012, an Alberta Environment and Parks ("AEP") Lands Officer did inspect the Site and observed:

- an accumulation of refuse and debris, including vehicles and parts; and
- several buildings in a state of disrepair.

WHEREAS during the September 28, 2012, inspection the Lands Officer further observed that the Site appeared to have not had horses on it for at least the past year, however no reclamation had been commenced or completed;

WHEREAS on April 22, 2015, an AEP Lands Officer conducted an additional inspection of the Site and found the Site in the same condition with an accumulation of refuse and debris, including vehicles and parts, and several buildings in a state of disrepair;

WHEREAS during the April 22, 2015, inspection, the Lands Officer again observed that there continued to be no evidence of horses on the Site, with no reclamation having been commenced or completed;

WHEREAS on April 24, 2015, AEP sent to Mr. Thiessen a letter requesting voluntary compliance with the applicable requirements of the Act, PLAR and the Disposition by July 15, 2015 and the letter was successfully delivered to Mr. Thiessen by mail;

WHEREAS on July 3, 2015, AEP sent to Mr. Thiessen an email requesting an update on his compliance efforts;

WHEREAS Mr. Thiessen did not respond to either AEP's letter dated April 24, 2015, or email dated July 3, 2015;

WHEREAS during a follow-up site inspection on July 15, 2015, the AEP Lands Officer again observed that the Site was in the same condition with an accumulation of refuse and debris, including vehicles and parts, and several buildings in a state of disrepair, with no evidence of compliance with the April 25, 2015 letter;

WHEREAS during the July 15, 2015, inspection, the Lands Officer also observed the presence of noxious weeds on the Site;

WHEREAS during the July 15, 2015, inspection the Lands Officer again observed that the Site had no evidence of horses on the Site, with no reclamation having been commenced or completed;

WHEREAS AEP staff met with Mr. Thiessen on the Site on May 26, 2016;

WHEREAS during the May 26, 2016 meeting, Mr. Thiessen agreed to comply with the provisions of the Act, PLAR and the Disposition, as outlined in the April 24, 2015 letter from AEP, including removal of

- b) Removal of all garbage, debris, refuse and other waste materials;
- c) Removal and control of all noxious weeds;

prior to the abandonment or cancellation of the Disposition, which is a contravention of section 21(1)(f) of PLAR;

THEREFORE, I, Owen Cook, Director, pursuant to section 59.1 of the *Public Lands Act*, DO HEREBY ORDER THAT:

1. Roger Thiessen shall immediately cease conducting all activities on the Site.
2. Roger Thiessen shall by August 31, 2017;
 - a. Remove and dispose of all garbage, debris, refuse and other waste materials from the Site; and
 - b. Remove and dispose of all structures, buildings, fences, and other improvements from the Site.
3. Mr. Thiessen must cut or manually remove all noxious weeds on the Site; and
4. Within 14 days of the completion date, Mr. Thiessen shall submit in writing to the Director a description of the work undertaken to comply with this Order.
5. DATED at the Town of Peace River in the Province of Alberta, this 9 day of May, 2017.

Original Signed by: Owen Cook
Compliance Manager
Peace Region
Designated Director under the Act

garbage, waste materials, structures, buildings, and vehicles, by July 13, 2016;

WHEREAS during follow-up Site inspections on June 28, 2016, and August 5, 2016, the Lands Officer and an Environmental Protection Officer again observed the Site in the same condition with an accumulation of refuse and debris, including vehicles and parts, and several buildings in a state of disrepair, although some large items had been removed;

WHEREAS during a phone call on November 29, 2016, Mr. Thiessen stated to the Environmental Protection Officer that there had been some additional items removed from the Site;

WHEREAS during a follow-up Site inspection on November 29, 2016, after Mr. Thiessen's report on the Site's condition, the Environmental Protection Officer observed that much of the accumulated refuse and debris and several buildings had been removed;

WHEREAS during the November 29, 2016 site inspection the Environmental Protection Officer also observed that some refuse and debris and structures remained on the Site, including corral fencing, and a shed, with no reclamation having been commenced or completed;

The Legislation

WHEREAS section 54(1)(a) of the Act states that no person shall cause, permit or suffer the accumulation of waste material, debris, refuse or garbage on public land;

WHEREAS section 54(1)(b) states that no person shall, cause, permit or suffer the existence on public land of any structure or excavation of any kind that is undesirable or otherwise in contravention of the Act or the regulations;

WHEREAS section 21(1)(f) of PLAR states that the holder of a formal disposition must on the expiry, cancellation, surrender or abandonment of the formal disposition, reclaim the subject land to an equivalent land capability;

WHEREAS section 59.1 of the Act provides that where, in the director's opinion, a person contravened a provision of the Act or the regulations the director may issue an enforcement order to a person responsible;

WHEREAS under section 1(o.1)(i),(iii), and (iii) of the Act, Mr. Thiessen is a person responsible;

WHEREAS Owen Cook, Compliance Manager, Peace Region, (the "Director") has been designated as a Director for the purposes of issuing enforcement orders under the Act;

AND WHEREAS the Director is of the opinion that Roger Thiessen has contravened section 54(1) of the Act and section 21(1) of PLAR by:

- Causing or permitting the accumulation of waste material, debris, refuse, and garbage on the Site which is a contravention of section 54(1)(a) of the Act;
- Causing or permitting the existence of undesirable structures, including but not limited to, buildings on the Site which is a contravention of section 54(1)(b) of the Act;
- Failing to conduct any reclamation of the Site including, but not limited to:
 - a) Removal of all structures, buildings, fences, and other improvements;

Notwithstanding the above requirements, the Parties shall obtain all other necessary approvals from any regulatory agency (provincial or federal) 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 the *Public Lands Act* or any other legislation. Failure to comply with this order may result in further enforcement proceedings, up to and including prosecution.

Section 211 of the *Public Lands Administration Regulation* may provide a right of appeal against this decision to the Public Lands Appeal Board. There may be a strict time limit for filing such an appeal.

For further information, please contact the Board at:

**Public Lands Appeal Board
306 Peace Hills Trust Tower
10011 - 109 Street
Edmonton, Alberta T5J 3S8
Telephone (780) 638-4189**

