



file no. 13185

WATER ACT

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

ENFORCEMENT ORDER NO. WA-EO-2012/03-CR

Glenn Sharp
Rural Route #4
Lacombe, Alberta
T0C 1S0

("Sharp")

and

Craigievar Farm Ltd.
600, 4911 – 51 Street
Red Deer, Alberta
T4N 6V4

(the "Company")

WHEREAS Craigievar Farm Ltd. ("the Company") is the registered owner of lands legally described as SE 24-39-25-W4M, located in County of Lacombe, Alberta (the "Lands");

WHEREAS Glenn Sharp ("Sharp") is the sole shareholder and director of the Company;

WHEREAS prior to 1993 and based on historical aerial photography, the Lands had a drainage pattern which contained an unnamed tributary of Haynes Creek that meandered through the southwest corner of the Lands (the "Natural Watercourse") and nearby but not part of the Natural Watercourse were a series of low lying areas that contained water at certain times of the year (collectively the "Potholes");

WHEREAS on July 29, 2009, an Alberta Environment and Water ("AEW") investigator attended the Lands and observed that the Natural Watercourse had been altered to redirect the water flow along the western and southern portion of the property line of the Lands ("the Channel");

WHEREAS on December 10, 2009, the AEW Investigator sent a letter to Sharp advising him to apply for an approval under the *Water Act* for the Channel;

WHEREAS on November 29, 2011, the AEW Investigator sent a letter to Sharp that included

applicable sections of the *Water Act* and the requirement to submit a remediation plan for the Channel, designed by a qualified water resource professional;

WHEREAS on February 24, 2012, the AEW Investigator attended the Lands and observed that portions of the Lands in the southeast quadrant had been excavated to form a series of smaller drainage ditches and that a total of five (5) Potholes had been altered by excavation or fill activities (collectively "the Wetland Works");

WHEREAS attached to this Order and marked as Exhibit "A" is an untitled 2010 aerial photograph showing the following:

- the Channel which is identified by a solid red line with an arrow running from points "B", "C" and "D" along the western and southern portion of the property line of the Lands; and
- the Wetland Works that includes ditching which is identified by solid red lines with arrows and the altered Potholes which are identified by numbers 11, 12, 13, 14 and 15 in the southeast portion of the Lands;

WHEREAS the AEW Investigator met with Sharp's legal counsel on November 24, 2011 and January 19, 2012 to discuss the remediation of the Channel;

WHEREAS on April 5, 2012, the AEW Investigator sent a Notice of Investigation to Sharp to advise that AEW was undertaking an investigation of the Lands in relation to the Channel and the Wetland Works;

WHEREAS the Natural Watercourse and the Potholes are water bodies within the meaning of section 1(1)(ggg) of the *Water Act*;

WHEREAS the realignment the Natural Watercourse to form the Channel, and construction of the Wetland Works are activities within the meaning of section 1(1)(b)(i) and 1(1)(b)(ii) of the *Water Act*, which require approvals pursuant to section 36(1) of the *Act*;

WHEREAS the AEW Investigator determined that AEW has never received applications from nor issued any approvals under the *Water Act* to Sharp or the Company to authorize activities on the Lands;

WHEREAS remedial works, as designed by a qualified water resource professional, are required to restore the natural functioning of the Natural Watercourse by ensuring that the Channel minimizes flooding, erosion and siltation on the Lands and adjacent properties, and to restore the Wetland Works to their pre-disturbance conditions or, alternatively, to create a consolidated wetland feature on the Lands;

WHEREAS Martin Paetz, District Compliance Manager, Central Region (the "Director") has been appointed a Director for the purposes of issuing enforcement orders under the *Water Act*;

WHEREAS the Director is of the opinion that Sharp and the Company have contravened section 36(1) of the *Water Act*, which is an offence under section 142(1)(h) of the *Water Act* by realigning the Natural Watercourse to form the Channel and by constructing the Wetland Works without approvals;

WHEREAS the Company and Sharp are each a "person responsible" under section 1(1)(kk) of the *Water Act* and section 1(5) of the *Water (Ministerial) Regulation* (A.R. 205/98) for activities on the Lands, as being the registered owner of the Lands and/or the entity who directed or carried out the activities on the Lands;

THEREFORE, I, Martin Paetz, District Compliance Manager, Central Region, pursuant to section 135(1) and 136(1) of the *Water Act*, DO HEREBY ORDER THAT:

1. Sharp and the Company shall immediately cease all activities on the Lands in regard to the realignment of the Natural Watercourse or the further development of the Wetland Works.
2. Sharp and the Company shall submit a written remedial plan to the Director by **July 15, 2012** (the "Remedial Plan") that is prepared and signed by a qualified environmental professional.
3. The Remedial Plan shall include, but not be limited to, the following:
 - (a) The results of a review and analysis of historic photography of the Lands to locate and plot the alignment of the original Natural Watercourse, the drainage patterns and the Potholes relative to the present landscape;
 - (b) The results of a delineation and hydrologic analysis of the sub-basin contributing flow to the Natural Watercourse and to the Potholes, including the calculation of the maximum instantaneous discharge for the 1:2, 1:5, 1:10, 1:25 and 1:50 annual return (natural) flow received by the Natural Watercourse and Potholes;
 - (c) A description of the remedial works for the Channel that replicates the effect of the erosion and flood control function of the Natural Watercourse and accommodates the maximum instantaneous discharge along the Channel, including the methods, equipment and materials that will be used;
 - (d) A description of the remedial works for the Wetland Works that either
 - i. restores the original Potholes and drainage patterns;
 - or
 - ii. provides the design of a wetland consolidation feature in the same drainage pathway providing the equivalent retention and detention capability of the impacted Potholes,including the methods, equipment and materials that will be used.
 - (e) A description of the measures to prevent and minimize any erosion and siltation of the Channel and downstream areas.
4. The Remedial Plan shall be accompanied by a Schedule of Implementation for the remedial work that shall have no later than **September 15, 2012** as the completion date.
5. Sharp and the Company shall implement the work described in the Remedial Plan pursuant to the Schedule of Implementation that is approved by the Director.
6. Within 14 days of completion of the remedial work required by this Order, Sharp and the Company shall submit to the Director a final written report (the "Final Report") signed by the qualified environmental professional who supervised the remedial work confirming the remedial work undertaken to comply with this Order. The Final Report shall include an "As Built" survey confirming the remedial work undertaken to comply with this Order.
7. Sharp and the Company shall submit before November 1, 2013 and before November 1,

2014 a monitoring report signed by the qualified environmental professional, documenting the performance and maintenance needs of the remedial work undertaken to comply with this Order.

DATED at the City of Red Deer in the Province of Alberta, this 31st day of May, 2012.

**Original Signed by: Martin Paetz
District Compliance Manager
Central Region**

Section 115 of the *Water Act* may provide a right of appeal against this decision to the Alberta Environmental 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 Party(ies) shall obtain all necessary approvals 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 this or any other legislation.



Alberta Environment and Water Compliance Central Region	SCALE: Approximate	Unauthorized Activity - NE 13-39-25-W4/SE 24-39-25-W4
	DATE: March 2012	COMMENTS: Numbers identify potholes/red lines ditching Blue solid line outlines approximately the NE 13-39-25-W4 White solid arrow - locates watercourse realignment - NE 13 Red solid arrow - locates watercourse realignment - SE 24 Green solid line represents east & west boundaries on SE 24
	DISPLAY NO: EXHIBIT A 2010 Photo	
	DRAWN BY: Ron Hanson	