

**WATER ACT**

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

**ENFORCEMENT ORDER NO. EO-WA-23019**

Old Town Development Corp.  
Ralph Hutchinson (Director)  
Casey Hutchinson (Director)  
Tally Hutchinson (Director)  
11504 170 Street NW  
Edmonton, Alberta  
T5S 1J7  
(the "Party")

WHEREAS the Party is the registered owner of the lands legally described as the North West, Section 25, Township 52, Range 01, West of the 5th Meridian, and, with the exception of current subdivisions, is the owner of lands legally described as the South half, Section 36, Township 52, Range 01, West of the 5th Meridian, in the Town of Stony Plain, within the Province of Alberta (the "Lands");

WHEREAS the Town of Stony Plain (the "Town") is the registered owner of the lands legally described as Plan 1520719, Block 2, Lot 30PUL, South West of Fractional of Section 36, Township 52, Range 01, West of the 5th Meridian in the Town of Stony Plain, within the Province of Alberta (the "PUL Lands");

WHEREAS the Lands and PUL Lands will be referred to as the "Property";

WHEREAS 1728313 Alberta Ltd. owned the lands legally described as the North West, Section 25, Township 52, Range 01, West of the 5<sup>th</sup> Meridian between 2013 to 2015;

WHEREAS 1728313 Alberta Ltd amalgamated with the Party on February 1, 2015;

WHEREAS Ralph Hutchinson, Casey Hutchinson and Tally Hutchinson were directors of 1728313 Alberta Ltd and are also named directors of the Party;

WHEREAS the Property is approximately 72 hectares in size and are part of the "The Brickyard" land development, and seasonal wetlands were located throughout the Property;

WHEREAS on November 24, 2015 the Party's consultant reported to Alberta Environment and Parks ("AEP") that between 2013-2015 approximately 0.50 hectares of two wetlands had been impacted during the construction of an access road and temporary drainage easement, building lot construction and storm water pond ("Unauthorized Activity");

WHEREAS the Party explained to AEP that the two impacted wetlands (the "Impacted Wetlands") were not observed at the time of construction and that no *Water Act* approval had been obtained for this activity;

WHEREAS on May 3, 2016, a consultant submitted a letter to AEP on behalf of the Party concerning the Unauthorized Activity in the Impacted Wetlands on the Property;

WHEREAS in the letter the Party outlined that a final total of 2.69 hectares of wetlands were impacted of which 0.07 hectares was disturbed during the Party's ownership of the Land and 0.42 hectares was disturbed under 1728313 Alberta Ltd ownership of the Property;

WHEREAS the Party proposed to AEP that it construct 1.0 hectares of wetland and vegetated swale around a proposed storm water pond to compensate for the Unauthorized Activity of the Impacted Wetlands;

WHEREAS the Party obtained an Approval 00378017-00-00 under the *Act* authorizing its disturbance of the remaining 4.82 hectares of wetlands located on the Property;

WHEREAS on November 10, 2016, AEP requested that the Party obtain the services of a Qualified Authenticating Wetland Professional to provide an assessment of the Impacted Wetlands and a description of proposed remedial actions to address the damage from the Unauthorized Activity within the Impacted Wetlands;

WHEREAS on April 4, 2017, AEP sent an Investigator's Notice to the Party;

WHEREAS the Party, as part of the formal processes for subdividing the Property, turned over ownership of Plan 1520719, Block 2, Lot 30PUL of SW 36-052-1-W5M to the Town;

WHEREAS on April 5, 2017, AEP sent an Investigator's Notice to the Town;

WHEREAS on April 2, 2019, the Town provided a letter to the Party outlining that it actively participated in creation of the Party's "Wetland Remedial Action Plan" and "supports and accepts the intent of the Plan";

WHEREAS on April 4, 2019, AEP received an email from a consultant retained by the Party, WSP Global Inc., with an attached "Wetland Remedial Action Plan" document titled "OLD TOWN DEVELOPMENT CORP.WETLAND REMEDIAL ACTION PLAN THE BRICKYARD WITHIN A PORTION OF SW 36 AND NW 25-052-01 W5M April 05, 2019" (the Plan);

WHEREAS, the Plan includes a plan to construct 1.0 hectares of a wet meadow system complex surrounding a proposed storm pond on the Property to compensate for the Unauthorized Activity in the Impacted Wetlands and commits to implement a monitoring plan to verify the successful restoration of the constructed wetland;

WHEREAS on October 23, 2019, an AEP Wetland Specialist reviewed the Party's Plan;

WHEREAS on February 5, 2021 AEP provided feedback on the Party's Plan and a meeting between AEP and the Party was held on February 8, 2021 to discuss the feedback;

WHEREAS the Party incorporated AEP's and the Party's agreed to resolution of AEP's feedback concerning the Plan in the document titled "**Comment Response #1: Files 305963 and 307550 Review of Wetland Remedial Action Plan – The Brickyard**" ("Comment Response #1") received on March 8, 2021 from the Party;

WHEREAS Comment Response #1 provides supplemental clarification and guidance for the work outlined in the Plan;

WHEREAS the Impacted Wetlands are each a “water body” as defined in Section 1(1)(ggg) of the *Water Act*;

WHEREAS each of the Unauthorized Activities is an “activity” as defined in Section 1(1)(b) of the *Water Act*;

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

WHEREAS AEP has not issued, at the time of the Unauthorized Activity, an approval under the *Water Act* to the Party or any other person authorizing any of the Unauthorized Activities on the Lands, and these activities are not otherwise authorized under the *Water Act*;

WHEREAS the Party is a person responsible for the Unauthorized Activities pursuant to Section 1(1)(kk) of the *Water Act* and Section 1(5) of the Water (Ministerial) Regulation (AR 205/1998);

WHEREAS Maxwell Harrison, Compliance Manager, has been appointed a Director for the purpose of issuing enforcement orders under the *Water Act* (the “Director”);

WHEREAS the Director is of the opinion that the Party has contravened Section 36(1) of the *Water Act*, which is an offence under Section 142(1)(h) of the *Water Act*, by conducting the Unauthorized Activities without an approval;

WHEREAS the Director accepts the Plan and Comment Response #1 and is of the opinion that restoration of the Impacted Wetlands is required in accordance with the Plan and Comment Response #1;

**THEREFORE**, I, Maxwell Harrison, Director, pursuant to Section 135(1) and 136(1) of the *Water Act*, HEREBY ORDER THAT:

### **Wetland Restoration Plan**

1. On or before **December 31, 2022** the Party shall implement the actions set out in both the Plan and the “Comment Response #1”;
1. In carrying out the requirements of Clause 1 of this Enforcement Order (the “Order”), the Party shall take all measures necessary to prevent all erosion, siltation and other adverse effects on all water bodies on the Lands and downstream of the Property.
2. In carrying out the requirements of Clause 1 of this Order, the Party shall meet the Wetland Design Objectives in Section 3.2.1 of the Plan.
3. In carrying out the requirements of Clause 1 of this Order, the Party shall meet the requirements set out in Section 4 of the Plan.
4. The Party shall provide notice by email to the Director 5 days prior to commencing the work set out in Clause 1 of the Order.

5. The Party shall provide the Director with notice via email within 14 days of completing the work required by this Order.

### **Monitoring Report**

6. Commencing on or before **December 31, 2024**, and annually thereafter, unless otherwise authorized in writing by the Director, the Party shall submit to the Director a written Wetland Restoration Monitoring Report ("Monitoring Report").
7. In the Monitoring Report, the Party shall include, at a minimum, each of the following:
  - (a) Wetland size and classification, based on the evaluation of monitoring results and comparison to revegetation outcomes confirmed by a field assessment;
  - (b) A vegetation establishment plot analysis within the four quadrats of the wetland:
    - i. The percent cover of vegetated versus non-vegetated areas; and,
    - ii. The percent cover of native species versus non-native species.
  - (c) All erosion and sedimentation observations;
  - (d) An evaluation of the functioning of the Impacted Wetland;
  - (e) An evaluation of the need for future monitoring of the Impacted Wetland; and,
  - (f) All monitoring results and analysis.
8. As part of the December 31, 2024 Monitoring Report, the Party shall include a Wetlands Restoration Verification Proposal, for the Director's review and approval.
9. In the Wetlands Restoration Verification Proposal, the Party shall include:
  - (a) the evaluation of monitoring results and comparison to monitoring targets confirmed by field assessment; and,
  - (b) submission of all monitoring results and analysesin accordance with Section 6 of the Alberta Wetland Restoration Directive (Government of Alberta, November 1, 2016).
10. The Party shall implement the Wetland Restoration Verification Proposal in accordance with the Director's written authorization.

DATED at the City of Edmonton, in the Province of Alberta, this 27<sup>th</sup> day of July, 2021.



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Maxwell Harrison  
Compliance Manager  
Regulatory Assurance Division

**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 #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 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 this or any other legislation.**