



**WATER ACT**

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

**ENFORCEMENT ORDER NO. EO-WA-39659**

Hutterian Brethren Church of Alix  
Box 369  
Alix, Alberta T0C 0B0

and

Henry Hofer  
Box 369  
Alix, Alberta T0C 0B0

(hereinafter referred to as "the Parties")

WHEREAS Hutterian Brethren Church of Alix is the registered owner of the lands legally described as NE-15-39-23 W4M and SE-15-39-23 W4M, located in Lacombe County, in the Province of Alberta (the Lands);

WHEREAS Henry Hofer is a registered director of the Hutterian Brethren Church of Alix;

WHEREAS on October 12, 2022, Environment and Protected Areas (EPA) received information from a member of the public that an activity was occurring involving a wetland on the Lands;

WHEREAS on October 13, 2022, an EPA Environmental Protection Officer (EPO) conducted an inspection on the Lands, and made the following observations:

- A cat dozer was present and active on the Lands;
- Vegetation within and adjacent to a water body on the west side of the Lands had been cleared and scraped, with vegetation and earthen materials being stockpiled along the east and west side of the water body; and
- The cat dozer was pushing mineral soils into the water body area that had been disturbed;

[hereinafter, collectively referred to as the "Unauthorized Activities"]

WHEREAS on October 13, 2022, the Parties were contacted by telephone and informed by the EPO, that the Unauthorized Activities were conducted within water bodies and would require an approval. The EPO informed the Parties that all operations within water bodies must cease until further direction is received. The Parties agreed to cease work;

WHEREAS on October 14, 2022, an EPO conducted an follow up site visit on the Lands, and made the following observation:

- The water body had been further disturbed from the October 13, 2022 inspection, with the organic soil stockpiles now spread over the disturbed area, including the water body, and graded;

WHEREAS on October 14, 2022, the Parties (Henry Hofer, Field Boss) stated to the EPO that the works were to infill low areas that had been dry for a number of seasons and had become a nuisance;

WHEREAS on October 19, 2022, an EPO conducted an follow up site visit on the Lands, and made the following observations:

- A total of eleven (11) water bodies were identified within the Lands; and
- A total of seven (7) water bodies were impacted by the Unauthorized Activities;

(hereinafter, collectively referred to as the "Impacted Water Bodies"

WHEREAS attached to this Order in Appendix A:

- Figure 1, which specifies the locations of the Impacted Water Bodies;

WHEREAS on February 3, 2023 an Investigator's Notice was sent to the Parties indicating that the activities conducted on the Lands were unauthorized and may be a contravention of the *Water Act*;

WHEREAS the water bodies are 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: "no person may commence or continue an activity except pursuant to an approval unless it is otherwise authorized under this *Act*";

WHEREAS EPA has not issued an approval under the *Water Act* to the Parties or any other person, authorizing any of the Unauthorized Activities, and these activities are not otherwise authorized under the *Water Act*;

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

WHEREAS Todd Urquhart, Compliance Manager, Red Deer District, has been designated a Director for the purpose of issuing enforcement orders under the provisions of the *Water Act* (hereinafter referred to as "the Director");

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

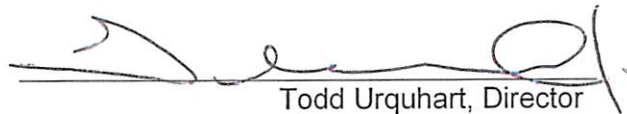
THEREFORE, I, Todd Urquhart, Director, pursuant to Section 135(1) and 136(1) of the *Water Act*, HEREBY ORDER THAT:

1. The Parties shall immediately cease all unauthorized activity on the Lands.
2. The Parties shall retain 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").
3. The Parties shall, on or before **July 5, 2023**, submit to the Director in writing the following information:
  - (a) the name and contact information of the Authenticating Professional; and
  - (b) a summary of how the Authenticating Professional meets all the requirements of Clause 2 of this Order.
4. On or before **September 25, 2023**, the Parties shall submit to the Director for the Director's written approval, a written Restoration Plan (the "Restoration Plan"), prepared, stamped and signed by the Authenticating Professional.
5. In the Restoration Plan, the Parties shall include at least each of the following:
  - (a) an assessment of how the Unauthorized Activities affect each of the Impacted Water Bodies, including a detailed plan to restore each of the Impacted Water Bodies to their respective conditions prior to the Unauthorized Activities, including at least each of the following:
    - i. delineation of the wetland boundaries;
    - ii. wetland size
    - iii. wetland classification;
    - iv. zones of wetland function;
    - v. topography and slopes,
    - vi. soils,
    - vii. hydrology, including all
      1. inlet locations;
      2. outlet locations;
      3. elevations; and
    - viii. vegetationin and around each of the Impacted Water Bodies;

- (b) a detailed plan to restore the flow of water into and out of each of the Impacted Water Bodies to their respective conditions prior to the Unauthorized Activities, including, restoration of the elevation of each inflow and outflow; and <sup>TWA</sup>
- (c) a complete list of the types of:
- i. equipment,
  - ii. methods, including earth works and planting techniques and
  - iii. materials, including salvaged and donor soils and vegetation, that will be used in the implementation of the Restoration Plan;
- (d) a detailed description of the measures to prevent all erosion, siltation and other adverse effects to
- i. the Impacted Water Bodies
  - ii. all other water bodies
- during all of the work carried out in the implementation of the Restoration Plan;
- (e) a detailed proposal to monitor each of the Impacted Water Bodies (the "Restoration Monitoring Proposal") following the completion of the Restoration Plan including, at minimum:
- i. a proposed schedule for completing monitoring, including both the time of year of the assessments and the number of years monitoring is to be completed, and
  - ii. the monitoring methods and targets to be used for vegetation, soils and hydrology assessments in determining restoration success; and
- (f) a detailed proposal, prepared in accordance with Section 6 of the Alberta Wetland Restoration Directive (Government of Alberta, November 1, 2016) to complete a Wetlands Restoration Verification (the "Wetlands Restoration Verification Proposal") for each of the Impacted Wetlands including, at minimum:
- i. Wetland size and classification, based on the evaluation of monitoring results and comparison to monitoring targets and confirmed by a field assessment, and
  - ii. submission of all monitoring results and analysis to the Director for review.
6. In the Restoration Plan, the Parties shall include a schedule of implementation for the work proposed in the Restoration Plan, excluding the proposals required in clauses 5(e) and 5(f) of this Order, with a completion date of no later than **November 30, 2023** (the "Completion Date").
7. The Parties shall only complete the work described in the Restoration Plan in accordance with the Directors written authorization.

8. The Parties shall provide the Director with five (5) days notice either by phone or email prior to commencing the work in the Restoration Plan as approved by the Director.
9. The parties shall implement the Restoration Monitoring Proposal in accordance with the Directors written authorization.
10. The Parties shall implement the Wetlands Restoration Verification Proposal in accordance with the Directors written authorization.

DATED at the City of Red Deer, in the Province of Alberta, this 5<sup>th</sup> day of June, 2023.



Todd Urquhart, Director  
Compliance Manager  
Southern Region

Part 9 of the *Water Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. Pursuant to Section 116 a Notice of Appeal must be submitted to the Environmental Appeals Board not later than seven (7) days upon receipt of an Enforcement Order. A copy of Part 9 is enclosed. For further information, please visit <http://www.eab.gov.ab.ca/> or 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 Parties 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.



Appendix A, Figure 1 | EO-WA-39659



Legend  
WB - Water Body

Date: 2023-04-03

