



## **PUBLIC LANDS ACT**

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

### **ENFORCEMENT ORDER NO. EO-PLA-33960**

Ronald Louis Cloutier  
Box 150  
Donnelly AB T0H1G0

#### **The Lands**

**WHEREAS** the land that is described as all that portion of the NE-01-080-20-W5M which lies to the south of a line drawn parallel to the south boundary thereof and perpendicularly distant 402m measured northerly therefrom, and which lies to the east of a line drawn parallel to the east boundary of the said quarter section and perpendicularly distant 605m measured westerly therefrom, in the Municipal District of Smoky River No. 130, in the Province of Alberta, as depicted in Appendix I are "public lands" within the meaning of section 1(p) of the *Public Lands Act*;

**WHEREAS** the remainder of the lands contained in NE-01-080-20-W5M are privately owned lands;

**WHEREAS** on September 22, 2014 Alberta Environment and Parks (AEP) was informed by Alberta Agriculture and Forestry about an alleged unauthorized use of public land located within part of NE-01-080-20-W5M (the "Lands"). Agriculture and Forestry staff reported that a drainage ditch had been constructed within the Lands;

**WHEREAS** on June 3, 2020 AEP again became aware of the unauthorized use of the Lands;

#### **The Unauthorized Activities**

**WHEREAS** in a cautioned statement taken on September 15, 2020, Ronald Cloutier stated:

- He had constructed the ditch on the Lands in November 2009 as it benefitted his family and his neighbor's farming operations;
- The ditch was to help to mitigate water issues experienced on NW-01-080-20-W5M. Overland flow was going across NE-01-080-20-W5M and then onto NW-01-080-20-W5M and causing significant erosion issues within the fields, which caused considerable conflict with a previous owner of S1/2 12-080-20-W5M;
- At the time the ditch was created they were not aware that they were on public lands;
- This ditch connected to ditches to the north and the south made previously by an adjacent landowner;
- He was aware that there was a process for getting ditches registered as he knew about a nearby ditch that had required government approval;

**WHEREAS** an inspection of the Lands on September 17, 2020 verified that a drainage ditch had been constructed on the Lands and revealed that:

- There is only one culvert connecting the ditch and the muskeg at the north end;
- There does not appear to be any impounded water behind the berm;
- The berm on the eastern side of the ditch appeared to be approximately one meter higher than the average ground height of the muskeg;
- The western side of the ditch appeared to have been levelled lower than the east side.
- The ditch contained water at the time of inspection;
- The ditch was not connected directly to the ditches to the south that had previously been constructed, but was connected to the ditch to the north;
- Through the use of GPS data gathered during the inspection, GIS software, and aerial imagery, it was determined that a total of 725 meters of ditching had been constructed on the Lands;

(hereinafter, collectively referred to as the “Unauthorized Activities”)

### **The Legislation**

**WHEREAS** section 20 of the Act states that no person shall enter on and occupy any public land for any purpose unless authorized;

**WHEREAS** at no time during or previous to 2014 did AEP authorize Ronald Cloutier to enter on and occupy the Lands for any purpose;

**WHEREAS** use and occupation of the Lands by Ronald Cloutier has resulted in loss or damage to the soil or vegetation on the Lands;

**WHEREAS** section 56(1)(d) of the Act states that it is an offense to occupy public land without being the holder of a disposition or authorization under section 20;

**WHEREAS** section 59.1(1) of the Act states that where the director is of the opinion that a person has contravened a section of the Act or regulations, the director may issue an enforcement order to a person responsible;

**WHEREAS** Ronald Cloutier is a person responsible under section 1(o.1)(iii) of the Act;

**WHEREAS** section 59.1(3) of the Act provides that in the enforcement order, the director may require the person to whom the order is directed to carry out any of the measures contained in that section, including but not limited to remedying the effects of the contravention and suspending activities on or the use of the land;

**WHEREAS** reclamation work is required to restore the disturbed areas on the Lands to pre-disturbance conditions;

**WHEREAS** Jack McNaughton, Compliance Manager, Alberta Environment and Parks, has been designated as a Director under the Act for the purposes of issuing enforcement orders (the "Director");

**WHEREAS** the Director is of the opinion that Ronald Cloutier has contravened section 20 of the Act, which constitutes an offence under section 56(1)(d) of the Act;

**THEREFORE**, I, Jack McNaughton, the Director, pursuant to section 59.1 of the Act, DO HEREBY ORDER THAT:

1. Ronald Cloutier shall immediately vacate the public lands, and cease entering the public lands, except to undertake the reclamation works that are required pursuant to this Order;
2. Ronald Cloutier shall ensure that permission for any access through private land is obtained prior to entry;
3. Ronald Cloutier shall immediately reclaim the Unauthorized Activities by:
  - a. Filling in the ditch,
  - b. Removing the culvert,
  - c. Levelling and re-contouring the Lands to match the topography of the surrounding lands,
  - d. Revegetate the Lands by seeding with a certified, Canada No.1 seed mix at a rate of 15 pounds per acre. A mixture of 45% smooth brome, 45% meadow brome and 10% timothy shall be utilized;
4. Reclamation work is not permitted in adverse ground conditions;
5. Ronald Cloutier shall monitor the reclamation work on the Lands and rectify any deficiencies regarding:
  - a. Soil slumping or settling,
  - b. Erosion,
  - c. Successful revegetation,
  - d. The control of any noxious or prohibited noxious weeds as defined under the *Weed Control Act*.

Any reclamation deficiencies noted in 5.a,b, c and d, shall be monitored and rectified for a period of no less than one year and until final sign off is received by the Director in writing;

6. On or before May 30, 2022 Ronald Cloutier shall provide written notice to the Director:
  - a. upon commencement of the reclamation work and monitoring required by clauses 3 and 5;
  - b. upon completion of the reclamation work and monitoring required by clauses 3 and 5;
  - c. after the public lands have been vacated as required by paragraph 1.

DATED at the Town of Peace River in the Province of Alberta, this 22<sup>nd</sup> day of October, 2021.

Jack McNaughton  
Compliance Manager, Alberta Environment and Parks

**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 this Act or any other legislation. Failure to comply with this order may result in further enforcement proceedings.**

**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) 427-6207**

Appendix I

