



WATER ACT

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

ENFORCEMENT ORDER NO. WA-EO-2019/08-LAR

Donald Lapierre
Box 7295
Bonnyville, AB T9N 2H6

and

645639 Alberta Ltd.
c/o Registered Office
4811 – 50th Avenue
Bonnyville, AB T9N 2J3

(collectively "the Parties")

WHEREAS 645639 Alberta Ltd. is a corporate entity registered in Alberta and owner of the lands legally described as Plan 8621749 Lot B in the MD of Bonnyville No. 87 [the "Lands"];

WHEREAS Donald Lapierre is the sole director and shareholder of 645639 Alberta Ltd., and at all material times made the decisions in respect of the issues which form the subject-matter of this Order;

WHEREAS there are natural surface water drainage flows across the Lands in a northerly direction which convey spring flows and which flow to the neighbouring property to the north, legally described as SE 24-61-6-W4M [the "SE-24"];

WHEREAS on June 13, 2012, Alberta Environment & Parks ["AEP"] received a complaint from the owner of the SE-24, stating that Donald Lapierre had cleared and widened the natural surface water flow path on the Lands into a drainage ditch, and that the ditch was now concentrating water flowing onto his property, the SE-24, and flooding a field;

WHEREAS the Lands were inspected by AEP in July 2012, and again on September 26, 2014, and the Environmental Protection Officers observed the following:

- Development activity on the Lands which had altered natural surface water flows

- A drainage ditch located on the Lands that was concentrating and directing water flowing towards the SE-24
- A dugout collecting a portion of water from the Lands with an overflow that directed water towards the SE-24

WHEREAS attached as Appendix "A" is an aerial map showing the Lands, the SE-24, the constructed drainage ditch, and an earthen berm constructed along the southeast property line of the SE-24 that is the subject of a separate investigation by AEP;

WHEREAS between 2014-2018, AEP was communicating with the MD of Bonnyville No.87, the Parties and the owners of SE-24 regarding the drainage issues between the Lands and the SE-24, that included further work required on the Lands to meet the MD's sewage requirements;

WHEREAS by 2017, the Parties resolved the MD's sewage requirements, and stated to AEP that they would fill in the drainage ditch;

WHEREAS on April 17, 2018 and March 26, 2019, AEP inspections confirmed that the drainage ditch remains on the Lands, and is altering the natural surface water flows resulting in flooding on adjacent property;

WHEREAS constructing, maintaining or operating works that alter the flow, direction of flow or level of water, or that change the location of water for the purpose of drainage are included within the definition of an "activity" as defined in section 1(1)(b) of the Act;

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

WHEREAS the construction and operation of the drainage ditch to drain water from the Lands is an "activity" and requires approval under the Act;

WHEREAS AEP has not issued an approval or other authorization to the Parties for the construction or operation of the drainage ditch;

WHEREAS the Parties are each a "person responsible" for the drainage ditch pursuant to Section 1(1)(kk) of the Act, and Section 1(5) of the *Water (Ministerial) Regulation (AR 205/1998)*;

WHEREAS Simon Tatlow, Compliance Manager, Lower Athabasca Region [the "Director"] has been designated as a Director for the purpose of issuing enforcement orders under the Act;

WHEREAS the Director is of the opinion that the Parties have contravened Section 36(1) of the Act for the unauthorized construction of the drainage ditch;

THEREFORE, I, Simon Tatlow, Director, pursuant to Sections 135(1) and 136(1) of the Act, DO HEREBY ORDER THAT:

1. The Parties must immediately cease all unauthorized activities on the Lands.

2. The Parties shall submit to the Director by **November 21, 2019**, for the Director's approval, a written Remedial Plan ("the Plan") signed and stamped by a Professional with experience in hydrology and restoration of natural surface water flows, that shall have as its objective the infilling of the drainage ditch, or otherwise rendering it ineffective, in such a manner that will restore natural surface drainage patterns across the Lands to that which existed prior to the construction of the drainage ditch.
3. The Parties shall include in the Plan, at a minimum the following:
 - A. A map to determine:
 - i. The historical drainage patterns prior to construction of the drainage ditch; and
 - ii. The currently altered drainage patterns on the Lands, including where the water is entering and exiting the Lands, in order to determine the scope of work to restore the surface water drainage patterns that existed prior to construction of the ditch.
 - B. Details as to how the drainage ditch will be infilled, or otherwise rendered ineffective, in a manner that will meet the objective stated in Clause 2.
 - C. Details on the management of water exiting the Lands, including after the proposed remedial work under the Plan, to minimize impacts to neighbouring properties while ensuring the restoration of natural surface drainage patterns.
 - D. A description of the type of equipment, methods, and materials that will be used in implementing the Plan.
 - E. A schedule for implementing the Plan with a completion date no later than **January 23, 2020**.
4. The Parties shall implement the Plan as approved in writing by the Director in accordance with the schedule of implementation approved by the Director.
5. The Parties shall provide the Director with a minimum of 2 business days' notice by email prior to commencing any work under the Plan.
6. The Parties shall submit to the Director a final report prepared and signed by the approved Professional describing the work undertaken to comply with this Order 30 days after completion of the remedial work in the approved Plan.

DATED at the Town of Bonnyville, in the Province of Alberta, this 18th day of October 2019.


Simon Tatlow
Compliance Manager
Lower Athabasca Region



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 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. For further information, please contact the Board Secretary at:

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10011 – 109th Street
Edmonton, Alberta, T5J 3S8
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