



PUBLIC LANDS ACT

BEING CHAPTER P-40, R.S.A. 2000 ("the Act")

ENFORCEMENT ORDER NO. PLA-EO-2018/01-UAR

Jade Oilfield Maintenance Company Ltd.
53132 Rge Rd 180
Yellowhead County, Alberta T7E 3G1

Russell Dolanz
PO Box 7544
Edson, Alberta T7E 1V7

Cindy Dolanz
PO Box 7544
Edson, Alberta T7E 1V7

[collectively, the "Parties"]

WHEREAS Jade Oilfield Maintenance Company Ltd. ("Jade") has operated a gravel pit (the "Pit") on a portion of public land legally described as SW-35-052-21-W5M (the "Public Land") within the meaning of section 1(p) of the *Public Lands Act* (RSA 2000, c. P-40) (the "Act") and on a portion of private land legally described as Plan 0721014 Block 1 Lot 1 (the "Private Land") both in Yellowhead County, in the Province of Alberta;

WHEREAS Cindy and Russel Dolanz are the sole directors of Jade Oilfield Maintenance Company Ltd. ("directors");

WHEREAS the Pit is approximately 30 hectares in area and straddles the Private Land (approximately 28 hectares) and a portion of Public Land (approximately 2 hectares). Appendix A to this Order contains a map showing the dimensions, location and features of the Pit;

WHEREAS the Parties have not obtained any authorizations that are required for the opening up, operation or reclamation of the Pit on any of the Private or Public Land;

WHEREAS Patrick Paul and Patricia Anderson own the Private Land (the "Landowners");

WHEREAS on July 23, 2015, Alberta Environment and Parks ("AEP") staff attended the Pit and made the following observations (Appendix A identifies the locations of several of the below):

- excavation of the surface and subsurface of the Private Land where soil and aggregate had been removed from the excavation at some time prior to July 23, 2015;
- excavation breached the water table and groundwater was recharging, creating numerous end pit lakes;
- around the excavation boundary were stockpiled aggregate, sheer pit faces and disturbed soil profiles;

- excavated and admixed topsoil and subsoil material that had been stockpiled;
- an excavator actively removing aggregate from end pit lakes;
- aggregate that had been previously removed from end pit lakes;
- loader and gravel truck actively hauling aggregate;
- equipment actively moving and stockpiling aggregate;
- bulk fuel storage;
- three drainage ditches had been constructed, two on the Private Land and one on the Public Land;
- turbid water draining from End Pit Lake #2 via Drainage Ditch A to an indefinite stream, which releases directly into the McLeod River (see locations of end pit lakes and drainage ditches on the map at Appendix A);
- a channel (Drainage Ditch B) connecting the indefinite stream and wetland area, that releases directly to the McLeod River, to End Pit Lake #2;
- a channel (Drainage Ditch C) connecting the indefinite stream and wetland area, that releases directly to the McLeod River, to End Pit Lake #3; and
- the activities observed, via GPS readings taken around the perimeter of the Pit, extended over approximately 28 hectares on the Private Land and 2 hectares on the Public Land;

WHEREAS during AEP's July 23, 2015 attendance at the Pit, the AEP Inspector verbally advised the Parties:

- in order to legally operate the Pit, a registration under the *Environmental Protection and Enhancement Act* (EPEA) is required; and
- to fill in the Drainage Ditch A so that it was no longer directing the flow of water from End Pit Lake #2 to the McLeod River;

WHEREAS by email on July 27, 2015, Jade informed AEP that the Drainage Ditch A had been filled in and End Pit Lake #2 was no longer flowing into the McLeod River;

WHEREAS on July 29, 2015, emails were exchanged between AEP and Mrs. Dolanz to confirm that no formal lease agreement existed between Jade and the Landowners regarding the existence or operation of the Pit on the Private Land;

WHEREAS by letter dated August 12, 2015, AEP advised Jade of the results of the July 23, 2015 inspection. In the letter, AEP also advised Jade that it must obtain:

- a registration for the Pit under the *Environmental Protection and Enhancement Act* to authorize all construction, operation and reclamation;
- all applicable Approvals under the *Water Act*; and
- a Surface Material Lease under the *Public Lands Act* to authorize the operation of the Pit on Public land;

WHEREAS on September 8, 2015, AEP attended the Public Land and conducted an inspection and made the following observations:

- the three previously described unauthorized drainage ditches;
- water flowing from End Pit Lake #2 via Drainage Ditch A to an indefinite stream which releases directly into the McLeod River (Appendix A);
- 50-75 metre long area from which vegetation had been removed within 2 metres of the bank of the McLeod River;
- End Pit Lake #2 from which excavation had been occurring (Appendix A);
- excavations along the eastern part of the Pit on Public Land, which were within 15-20 metres of the McLeod River (Appendix A); and,
- an excavator submerged in End Pit Lake #2 on Public Land (Appendix A);

WHEREAS on November 16, 2015, AEP met with Jade and Jade's Consultant, during which AEP communicated the legal obligations Jade has with respect to each of the required authorizations under all of Alberta's applicable legislation;

WHEREAS on July 20, 2016, AEP attended the Pit and observed:

- a loader and a gravel truck actively hauling aggregate; and
- a gravel truck dumping and stockpiling aggregate.

WHEREAS by letter dated January 10, 2017, AEP issued an Investigator's Notice to Jade regarding the unauthorized operation of the Pit;

WHEREAS on April 12, 2017, AEP staff met with a director of Jade and a Landowner in Edson, Alberta to discuss the activity at the Pit;

WHEREAS during the April 12, 2017 meeting, AEP reviewed the history of the site and the conditions of the September 21, 2009 development permit issued by Yellowhead County, and in the meeting it was confirmed that:

- a caveat between Jade and the Landowners was initially on title;
- from 2007 until present, there was a verbal agreement that Jade paid the Landowners for the gravel;
- the Landowners do not operate and have never worked in pit operations, and the Landowners left all requirements for security and responsibility under the legislation to Jade;
- according to the development permit, the pit was not to exceed 3.64 Ha (9.0 acres); and
- according to the development permit, the pit was not to be developed within 60m of the bank of the McLeod River;

WHEREAS on April 12, 2017, AEP advised Yellowhead County that the Pit was operating within 60m of the bank of the McLeod River;

WHEREAS on April 27, 2017, AEP attended the Pit and again made many of the same observations made on July 23, 2015 and made the following additional observations:

- stockpiled aggregate that was removed from the Private Land;
- processed and unprocessed aggregate in stockpiles;
- a channel (Drainage Ditch A) dug connecting the indefinite stream and wetland area to End Pit Lake #2 on the north-eastern portion of the Pit, which would, once spring freshet occurred, discharge water from End Pit Lake #2, to the indefinite stream that releases directly to the McLeod River;
- a channel (Drainage Ditch B) connecting the indefinite stream and wetland area to End Pit Lake #2 on the north-eastern portion of the Pit, which would, once spring freshet occurred, discharge water from the End Pit Lake #2, to the indefinite stream that releases directly to the McLeod River;
- a channel (Drainage Ditch C) from the indefinite stream and wetland area towards End Pit Lake #3, which would, once spring freshet occurred, discharge water from the End Pit Lake #3 to the indefinite stream and wetland area that releases directly to the McLeod River; and
- the activities observed, via GPS readings taken around the perimeter of the Pit, extended over approximately 28 hectares on the Private Land and 2 hectares on the Public Land;

WHEREAS by letter dated May 4, 2017, AEP issued an Investigator's Notice to the Landowners regarding the unauthorized operation of the Pit;

WHEREAS by letter dated May 4, 2017, AEP advised Jade that no further activities are to be conducted at the Pit until a registration is obtained;

WHEREAS on July 13, 2017, AEP attended the Private Land and observed:

- a loader and a gravel truck actively hauling processed aggregate;
 - crushed aggregate in stockpiles; and
- AEP interviewed the on-site staff who indicated that they were hauling for Jade. AEP advised the on-site staff that operations at the Pit were unauthorized;

WHEREAS as of the date of this order, AEP has not received an application from any of the Parties nor has AEP issued a Surface Material Lease under the *Public Lands Act*;

WHEREAS section 20(1) of the *Act* states that no person shall enter on and occupy public land for any purpose unless the Director has authorized that person to enter on and occupy the public land or the *Act* or regulations authorize the entry and occupation of the public land;

WHEREAS section 54(1) of the *Act* states:

“No person shall cause, permit or suffer:

- c) The existence on public land of any condition that may cause loss or damage to the public land;”

WHEREAS pursuant to section 1(o.1) of the *Public Lands Act*, each of the Parties is a “person responsible”;

WHEREAS pursuant to section 59.1 of the *Public Lands Act*, where the Director is of the opinion that a person has contravened a provision of the *Act* or regulations, the Director may issue an enforcement order to a person responsible;

WHEREAS Todd Letwin, Regional Compliance Manager, Upper Athabasca Region, has been designated as a Director under the *Public Lands Act* for the purposes of issuing enforcement orders (the “Director”);

WHEREAS the Director is of the opinion that the Parties have contravened sections 20 and 54 of the *Act*, by without authorization, entering and occupying the Public Land, and causing loss or damage to the Public Land;

THEREFORE, I, Todd Letwin, pursuant to section 59.1 of the *Act*, DO HEREBY ORDER THAT:

- I. The Parties must **immediately** cease all operation and all activity of any kind at the Pit, including all:
 - A. opening or excavating in or working of the surface or subsurface on any part of the Public Land; and
 - B. working, recovering, removal or sale of all soil, gravel, sand or any other material from the Public Land;
- II. The Parties must not enter or occupy any public land, unless it is authorized to do so under the *Public Lands Act*;
- III. The Parties must, by July 31, 2018, submit to the Director a detailed site assessment (the “Assessment”) signed and stamped by a qualified professional who is a member in good standing of at least one of the following: Alberta Society of Professional Biologists, the

Alberta Institute of Agrologists, College of Alberta Professional Foresters, or the College of Alberta Professional Forest Technologists;

IV. In the Assessment, the Parties must include, at a minimum, each of the following :

A. A detailed description of all areas of the Public Land that has been disturbed by the construction or operation of the Pit including at a minimum, all of the following:

1. A detailed description of all soils with at least 7 sample locations including:

- a. identification and description of all of the different soil types existing on all of the land on which disturbance has occurred;
- b. maps or air photos showing labelled sample locations;
- c. soil classification and soil horizons descriptions in accordance with the Canadian System of Soil Classification;
- d. topsoil and subsoil assessed at each sample location including:
 - i. soil depth;
 - ii. soil texture;
 - iii. soil aggregate size;
 - iv. soil aggregate structure;
 - v. consistence;
 - vi. rooting restrictions;
 - vii. percent admixing; and
 - viii. percent stoniness;
- e. organic horizon and thickness; and
- f. soil profile photographs at each sample location;

2. Representative control sample locations (undisturbed) for all soil variability found on the Public Land including:

- a. identification and description of the different soil types found;
- b. maps or air photos showing labelled sample locations;
- c. soil classification and soil horizons descriptions in accordance with the Canadian System of Soil Classification;
- d. topsoil and subsoil assessed at each sample location including:
 - i. soil depth;
 - ii. soil texture;
 - iii. soil aggregate size;
 - iv. soil aggregate structure;
 - v. consistence;
 - vi. rooting restrictions;
 - vii. percent admixing; and
 - viii. percent stoniness;
- e. organic horizon and thickness; and
- f. soil profile photographs at each sample location;

3. A detailed description of all the terrain including, at a minimum:

- a. topography (slope class and aspect);
- b. surface and internal drainage;

- c. pre-disturbance land use of the site (according to Yellowhead County's authorization);
 - d. type of parent material;
 - e. presence of surface stones;
 - f. existing instability, erosion, and gully features; and
 - g. a baseline map or air photo showing topographic contours;
4. A detailed description of the vegetation with at least three 10 x 10m sample locations in each eco-site phase including:
 - a. vegetation species composition, health, cover, litter production, and weed composition found at each of the sample locations; and
 - b. maps or air photos showing each labelled sample locations and vegetation photographs at each of the sample locations;
 5. A detailed description of representative vegetation control sample locations (undisturbed) with at least three 10 x 10m sample locations in each eco-site phase, including, at a minimum:
 - a. vegetation species composition, health, cover, litter production, and weed composition found at each of the sample locations; and
 - b. maps or air photos showing each labelled sample locations and vegetation photographs at each of the sample locations;
 6. A detailed description of the methods and equipment used to assess all:
 - a. soil;
 - b. terrain; and,
 - c. vegetation.

DATED at the City of Spruce Grove in the Province of Alberta, this 7th day of May, 2018.

Original Signed by:

Todd Letwin
Regional Compliance Manager
Upper 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 environmental 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. A copy of section 211 is provided below¹.