

**WATER ACT**

BEING CHAPTER W-3, RSA 2000 ("the Act")

**ENFORCEMENT ORDER NO. WA-EO-2018/06-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) 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
- fill in 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 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);
- 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) 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) dug from the indefinite stream and wetland area towards the 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 water body is defined as any location where water flows or is present, whether or not the flow or the presence of water is continuous, intermittent or occurs only during a flood, and includes but is not limited to wetlands and aquifers;

WHEREAS each of the McLeod River, the indefinite stream, the wetland area, and the groundwater aquifer underlying the Pit are "water bodies" under the *Water Act*;

WHEREAS each of the following are "activities" under the *Water Act*:

- Drainage Ditch A alters the flow, direction of flow, and level of water by allowing water from End Pit Lake #2 to flow into the indefinite stream and wetland area that releases directly to the McLeod River;
- Drainage Ditch B alters the flow, direction of flow, and level of water by allowing water from End Pit Lake #2 to flow into the indefinite stream and wetland area that releases directly to the McLeod River;
- Drainage Ditch C alters the flow, direction of flow, and level of water by allowing water from End Pit Lake #3 to flow into the indefinite stream and wetland area that releases directly to the McLeod River;
- Drainage Ditch A may cause an effect on the aquatic environment by allowing turbid water from End Pit Lake #2 to flow into the indefinite stream and wetland area that releases directly to the McLeod River;
- Drainage Ditch B may cause an effect on the aquatic environment by allowing turbid water from End Pit Lake #2 to flow into the indefinite stream and wetland area that releases directly to the McLeod River;
- removal of vegetation within the shore of the McLeod River may cause an effect on the aquatic environment;
- operating within the End Pit Lakes, which are connected to a groundwater aquifer; and
- removal of soil and vegetation connected to the wetland areas;

[collectively, all of the above are the "Unauthorized Activities"];

WHEREAS section 36(1) of the *Water Act* states "Subject to subsection (2), no person may commence or continue an activity except pursuant to an approval unless it is otherwise authorized under this Act";

WHEREAS pursuant to section 1(1)(kk) of the *Water Act*, and Section 1(5) of the *Water (Ministerial) Regulation* (A.R. 205/1998), each of the Parties is a "person responsible";

WHEREAS to date AEP has not received an application from any of the Parties for an authorization for the Unauthorized Activities under the *Water Act*, nor has AEP issued any authorizations to the Parties authorizing the conduct of any of the Unauthorized Activities;

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

WHEREAS pursuant to section 135(1) of the *Water 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 the Director is of the opinion that the Parties have contravened section 36 of the *Water Act*, by conducting an activity without approval;

THEREFORE, I, Todd Letwin, pursuant to section 135(1) and 136(1) of the Act, DO HEREBY ORDER THAT:

#### **Cease activity**

I. The Parties must **immediately** cease all unauthorized activity on each of the:

- A. Private Land; and,
- B. Public Land;

#### **Prevent**

II. The Parties must **immediately** prevent all earthen material that leaves the Public and Private Land from all of the following:

- A. coming into contact with the bed, shore and water of any water body;
- B. causing siltation of water; and
- C. potentially causing the siltation of water;

#### **Remedial Plan**

III. The Parties, must, on or before June 30, 2018 submit to the Director for the Director's approval, a written Remedial Plan (the "*Water Act Remedial Plan*") 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 or the Alberta Institute of Agrologists;

IV. In the *Water Act Remedial Plan*, the Parties must include, at a minimum, each of the following:

- A. A detailed plan to return to pre-disturbance conditions the entire Vegetation Removal Area (as identified on the map in Appendix A) from which vegetation was removed, including at least all of the following:
  - 1. a complete list of all proposed vegetation species that will be used;
  - 2. the proposed number of each of the vegetation species that will be used;
  - 3. the rationale for each type and number of proposed vegetation species;
  - 4. proposed planting techniques; and
  - 5. proposed timing for planting;
- B. A detailed plan to meet each of the following sloping requirements for each of the nine End Pit Lakes:
  - 1. 5:1 for a vertical distance of one meter above and one meter below full supply level; and
  - 2. 3:1 for an elevation below one meter below the full supply level;

V. In the *Water Act Remedial Plan*, the Parties must include a detailed plan to permanently render ineffective each of:

- A. Ditch A,
- B. Ditch B, and
- C. Ditch C;

VI. In the detailed plan to permanently render Ditches A, B and C, as required by clause V of this Order, the Parties must include at least each of the following:

**Vegetation**

- A. a complete list of all proposed vegetation species that will be used;
- B. the proposed number of each of the vegetation species that will be used;
- C. the rationale for each type and number of proposed vegetation species;
- D. proposed planting techniques; and
- E. proposed timing for planting;

**Soil**

- A. a complete list of all proposed soil types that will be used;
- B. the proposed amount of each soil type that will be used;
- C. the donor site location from which soil will be taken, including the rationale for each;
- D. proposed placement techniques; and
- E. proposed timing for completing the soil work;

VII. A schedule of implementation for the *Water Act* Remedial Plan, with both

- A. a completion date of no later than July 31, 2018, for all of the requirements included in Clauses IV(A), V and VI; and
- B. a completion date of no later than September 30, 2018, for the requirements included in Clause IV(B);

in this order.

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

**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. 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 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.**