

WATER ACT

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

ENFORCEMENT ORDER NO. WA-EO-33359

R & A Harpe Holdings Ltd.
Box 137
Valhalla Centre, Alberta T0H 3M0
(Hereinafter referred to as "the Company")

WHEREAS R & A Harpe Holdings Ltd. is the registered owner of lands legally described as NW-29-074-09-W6M, and SW-32-074-09-W6M located in the County of Grande Prairie No. 1, in the Province of Alberta (the "Lands");

WHEREAS R & A Harpe Holdings Ltd. is a corporate entity registered in Alberta and Richard and Lottie Harpe are directors of the Company;

WHEREAS the area of the Unauthorized Activities is a wetland and based on desktop delineation, aerial imagery, and in accordance with the Alberta Wetland Classification System, appears to be a semi-permanent graminoid marsh (M-G-IV) wetland and permanent shallow open water (W-A-V) wetland (the "Wetland") (Alberta Wetland Classification System, AEP 2015);

WHEREAS the Wetland is a "water body" under section 1(1)(ggg) of the *Water Act*;

WHEREAS on December 8, 2019, Alberta Environment and Parks ("AEP") received a complaint via AEP.Wetlands@gov.ab.ca indicating that an activity was undertaken within the Wetland on the Lands;

WHEREAS on December 17, 2019, two AEP Environmental Protection Officers ("EPOs") inspected the Lands and flew a Remotely Piloted Aircraft System to obtain aerial imagery and observed the following:

- A number of ditches had been excavated within the boundary of the Wetland which had altered the flow of water;
- The extent of the ditches included a main ditch running North to South, along with two additional, connected ditches running West to East;
- The ditches are located within the Wetland;

WHEREAS on December 17, 2019, Richard Harpe said the following in summary to the AEP EPOs during an in-person discussion:

- He had done work in the Wetland in the Fall of 2019;
- He did ditching to keep the water bodies filled for Trumpeter Swans;

- He was aware of the *Water Act* approval process from a prior investigation on unauthorized activities he had done;
- He said he “probably should have [obtained an approval] but didn’t want to” for the work he did in the Wetland;

WHEREAS on December 17, 2019, Richard Harpe presented aerial photos to the EPOs depicting three ditches he had excavated on the Lands;

WHEREAS satellite imagery from June 16, 2019 showed no ditch excavation in this area of the Wetland;

WHEREAS on August 18, 2020, AEP EPOs conducted an inspection of the Lands and flew a Remotely Piloted Aircraft System to obtain aerial imagery and observed the following:

- Ditch excavation had occurred to direct water from the wetland;
- The ditches were approximately 3.17 meters wide and 558.67 meters in length, as depicted in Schedule 1;
- Excavated soils were piled beside the ditches in the Wetland;
- Soils in the Wetland were compacted and rutted;

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

WHEREAS the Unauthorized Activities impacted the Wetland, altering the flow of water and reducing the hydrologic and ecological functions in the Wetland;

WHEREAS on September 1, 2020, Richard Harpe told AEP staff that a week after the December 17, 2019 site visit and meeting, he had installed a ditch plug in the ditch he constructed on the Lands;

WHEREAS each of the Unauthorized Activities is an “activity” as defined in section 1(1)(b)(i)(A) of the *Water Act*, namely removing or disturbing ground, vegetation or other material in or on any land, water or water body that causes, may cause or may become capable altering the flow or level of water or changes the location of water or direction of flow;

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

WHEREAS AEP has not issued an approval under the *Water Act* to the Company or anyone else to conduct the Unauthorized Activities, and these activities are not otherwise authorized under the *Water Act*;

WHEREAS Jack McNaughton, AEP Compliance Manager, North Region, has been appointed a Director for the purpose of issuing enforcement orders under the *Water Act* (the “Director”);

WHEREAS the Director is of the opinion that the Company has contravened section 36(1) of the *Water Act*;

THEREFORE, I, Jack McNaughton, the Director, pursuant to sections 135(1) and 136(1) of the *Water Act*, DO HEREBY ORDER THAT:

1. The Company shall immediately cease all unauthorized activity on the Lands, including, but not limited to:
 - (a) Ground disturbance.

2. The Company 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 Company shall, on or before March 19, 2021, submit to the Director in writing all of 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 April 19, 2021, the Company shall submit to the Director for the Director's written approval, a written Wetland Assessment Report, prepared, stamped and signed by the Authenticating Professional.
5. In the Wetland Assessment Report, the Party shall include, at a minimum, a detailed assessment of
 - (a) the condition of the Wetland prior to the Unauthorized Activities, including, all of the following:
 - i. classification, determined in accordance with the "Alberta Wetland Classification System" (Government of Alberta, June 1, 2015);
 - ii. landscape characteristics, including topography and slopes;
 - iii. hydrology;
 - iv. soils, and
 - v. vegetation;
 - (b) all of the effects of the Unauthorized Activities on the Wetland.
6. Within 30 days of receiving written approval from the Director for the Wetland Assessment Report referred to in clause 4 of this Order, the Company shall submit to the Director for the Director's written approval, a written Wetland Restoration Plan (the "Wetland Restoration Plan"), prepared, stamped and signed by the Authenticating Professional.
7. In the Wetland Restoration Plan, the Company shall include at least each of the following:
 - (a) a detailed plan to restore the Wetland to conditions prior to the Unauthorized Activities, including restoring the following:
 - i. topography and slopes,
 - ii. soils,
 - iii. hydrology, and
 - iv. vegetationin and around the Wetland;
 - (b) 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 Wetland Restoration Plan;

- (c) a detailed description of the measures to prevent all erosion, siltation and other adverse effects to
 - i. the Wetland, and
 - ii. all other water bodiesduring all of the work carried out in the implementation of the Wetland Restoration Plan;
- (d) a detailed proposal to monitor the Wetland (the "Restored Wetland Monitoring Proposal") following the completion of the Wetland 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;

8. In the Wetland Restoration Plan, the Company shall include a schedule of implementation for the work proposed in the Wetland Restoration Plan, excluding the proposals required in clauses 7(e) and 7(f) of this Order, with a completion date of no later than December 15, 2021 (the "Completion Date").
9. The Company shall only complete the work described in the Wetland Restoration Plan in accordance with the Director's written authorization.
10. The Company shall provide the Director with 5 days' notice either by phone or email prior to commencing the work in the Wetland Restoration Plan as approved by the Director.
11. The Company shall implement the Restored Wetland Monitoring Proposal in accordance with the Director's written authorization.
12. Where a deadline has been specified in this Order, the Director may authorize in writing a different deadline as applicable without amending the Order.

DATED at the town of Peace River in the Province of Alberta, this 5th day of February, 2021.



Jack McNaughton, Director
Compliance Manager
North Region

Section 115 of the *Water Act* may provide a right of appeal against this decision to the Alberta Environment 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: Alberta Environmental Appeals Board
30 6 Peace Hills Trust Tower, 10011-109 Street,
Edmonton, Alberta, TSJ 3S8
Telephone 780-427-6207; Fax 780-427-4693.**

Notwithstanding the above requirements, the Party 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 the *Water Act* or any other legislation.



SW SEC 32
TWP 74
RGE 9 W6M

SE SEC 32
TWP 74
RGE 9 W6M

NW SEC 29
TWP 74
RGE 9 W6M

Schedule 1 (Investigation 33359)

Photo Date: 18 Aug 2020
Ditch Length: 558.67m
Av Width: 3.17m

- One Lane Gravel Road
- - - - - Unimproved Road
- Driveway
- Quarter Section

Note: Photos taken via UAV
Location: SW SEC 32 TWP 074 RGE 09 W6M
& NW SEC 29 TWP 074 RGE 09 W6M



Scale: 1:4,000



Northwest Geospatial Field Unit, Provincial Geospatial Centre, EP
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