

FORESTS ACT

BEING CHAPTER F-22 R.S.A. 2000 (the "Act")

Director's Order 2013/01 - UAR

Gordon Buchanan Enterprises Ltd.
3200, 10180 – 101 Street
Edmonton, Alberta
T5J 3W8

WHEREAS on November 6, 2012, Alberta Environment and Sustainable Resource Development (ESRD) issued to Gordon Buchanan Enterprises Ltd. (the "Company") Timber Licence No. CTLS200049 (the "Timber Licence"), which applies to various sections within 69 & 70-14-W5M, 69, 70, 71 & 72-13-W5M, and 68, 69, 70, 71 & 72-12-W5M;

WHEREAS Schedule A of the Timber Licence requires the Company to comply with all the provisions and requirements of the Slave Lake Regional Timber Harvest Planning and Operating Ground Rules (February 1, 2012), as amended or replaced from time to time [the "Slave Lake Ground Rules"];

WHEREAS *inter alia* the Slave Lake Ground Rules set out the following requirements:

- Measures must be implemented, including temporary and permanent erosion control measures, to minimize erosion and sedimentation into the watercourse or waterbody (6.0.3);
- Riparian protection areas shall be established as in Table 2, Standards and Guideline for Operating Beside Watercourses....
- Table 2: Roads...not permitted within 100m of the high water mark...;
- Sediment...shall not be deposited into the water...of any watercourse or waterbody during road construction, maintenance, harvesting, reclamation, or silviculture operations (6.0.7);
- Roads and landings shall be construction to avoid:
(a) Unstable soils, water source areas, springs and seepage areas (11.3.1.2(a));...

WHEREAS on February 7, 2013, ESRD employees were conducting inspections in the area of the Company's Timber Licence area. In conversations with the Company's staff, ESRD was informed that the road [the "First Road"] the Company had built into Block 1559, located at SW-22-69-13-W5M had proven too steep for the haul trucks, and Company staff verbally proposed to the ESRD employees a different route to access Block 1559. The ESRD employees requested that the Company submit a map and plan regarding the building of a new road prior to undertaking any further road building activity;

WHEREAS on February 11, 2013, the ESRD Area Forester contacted the Company regarding whether it had made a decision on how to proceed with a new road into Block 1559, as no further communications from the Company had been received;

WHEREAS during the February 11, 2013 telephone conversation, the Company's Harvesting Supervisor informed the ESRD Area Forester that the Company had already built the new road [the "Second Road"] over the preceding weekend, citing clause 3.5.5(d) of the Ground Rules as justification for proceeding without ESRD's approval;

WHEREAS on February 12, 2013, an ESRD Forest Officer inspected both the First and Second Roads [collectively referred to hereinafter as the "Roads"] into Block 1559, and observed that the First Road was slumping and no longer passable, and the Second Road was still under construction;

WHEREAS on February 19, 2013, an ESRD Forest Officer conducted a further inspection and found that the Second Road was also impassable due both to unstable soil conditions caused by subsurface water flow and extremely steep slope;

WHEREAS on March 12, 2013, the ESRD Forest Officer and an ESRD senior Forester met with the Company's Harvesting Supervisor at the site of the Roads to discuss the need for reclamation of both the First and Second Roads. The ESRD Forest Officer and senior Forester communicated to the Company that reclamation must be completed prior to spring breakup;

WHEREAS on March 13, 2013, ESRD sent to the Company a Notice of Investigation regarding the construction of the unauthorized Second Road entering Block 1559;

WHEREAS on March 27, 2013, the ESRD Forest Officer again inspected the Roads into Block 1559 and noted that the unstable conditions of the Roads were the same as had been observed on March 12, 2013, and no reclamation had been started by the Company at that time;

WHEREAS on June 28, 2013, the ESRD Forest Officer again inspected the Roads into Block 1559 and observed that both the First and Second Roads had failed completely. The ESRD Forest Officer further observed that

- Earthen material that had been used to make the First Road had eroded down the slopes and migrated into the adjacent unnamed large permanent watercourse [the "Watercourse"];
- Water was flowing in the Watercourse; and
- The earthen material was now blocking nearly the entirety of the channel of the Watercourse;

WHEREAS on July 4, 2013, ESRD sent to the Company a letter requesting the Company submit, by August 2, 2013, a formal reclamation plan approved by a professional engineer;

WHEREAS on August 6, 2013, ESRD, in response to communications from the Company, ESRD sent to the Company a letter extending the deadline for submission of the reclamation plan to September 2, 2013;

WHEREAS on August 27, 2013, the Company advised ESRD that its consultant was unable to meet the September 2, 2013 deadline for submission of the reclamation plan;

WHEREAS on September 27, 2013, the Company submitted to ESRD a document entitled, "Geotechnical and Slope Stability Impact Assessment Forest, Access Roadway & Watercourse Slave Lake FMA; Cut Block 1559; 50 Km Southeast of High Prairie, Alberta" (the "Assessment");

WHEREAS although the Assessment meets some of the requirements set out in ESRD's August 6, 2013 letter to the Company, it does not contain the required information relating to:

- Contouring, slope stabilization, and erosion control measures;
- Plan to reclaim the watercourse and adjacent areas affected by sediment;
- Revegetation plan;
- Schedule of work; and
- A long-term monitoring plan.

WHEREAS section 100(1)(b) of the *Timber Management Regulation* (AR 60/73, as amended) states that every person who harvests timber on public land shall comply with the terms and conditions of the timber disposition;

WHEREAS "timber disposition" is defined in section 2(m) of the *Forests Act* as a forest management agreement, *timber licence*, or timber permit [emphasis added];

WHEREAS the failure to comply with the requirements of the Slave Lake Ground Rules constitutes a contravention of the Timber Licence, which is a contravention of the *Timber Management Regulation*;

WHEREAS section 12 of the *Forests Act* gives authority to the Director to, when on reasonable and probable grounds, the Director believes that a person is contravening the regulations, order that person to do or discontinue doing any act, as the case may be;

WHEREAS Dennis Palkun, Area Manager, Upper Athabasca Region, has been designated a Director for the purposes of issuing orders under the *Forests Act* (the "Director");

WHEREAS the Director believes that the Company has contravened the *Timber Management Regulation*, by contravening the Slave Lake Ground Rules when it *inter alia*, failed to implement erosion control measures to minimize erosion of the Roads and sedimentation into the adjacent Watercourse, allowed sediment to be deposited into the water of the Watercourse adjacent to the Roads, and failed to avoid unstable soils in the construction of the Roads.

THEREFORE, I, Dennis Palkun, pursuant to section 12 of the *Forests Act*, DO HEREBY ORDER:

1. The Company shall, by **October 31, 2013**, submit to the Director, for the Director's approval a written Remedial Plan, signed by both,
 - a. an independent third-party qualified geo-technical professional currently register with the Association of Professional Engineers and Geoscientists of Alberta (APEGA); and

- b. an independent third-party Qualified Aquatic Environmental Specialist, currently registered as a Professional Biologist with the Alberta Society of Professional Biologists.
2. In the Remedial Plan, the Company shall include, at a minimum, all of the following:
- a. A geotechnical assessment of the slopes of
 - i. The First Road; and
 - ii. The Second Road;
 - b. A detailed plan to stabilize all
 - i. Slopes; and
 - ii. Earthen materialsadjacent to and upland from the Watercourse, so that no further silt, soil or other earthen material enters onto the bed or shore, or into the water of the Watercourse;
 - c. A detailed plan to remove all earthen materials that are in contact with the
 - i. Bed; and
 - ii. Shoreof the Watercourse;
 - d. A detailed plan to, after the earthen materials are removed from the Watercourse, restore the
 - i. Bed; and
 - ii. Shoreof the Watercourse to pre-disturbance conditions;
 - e. The measures that will be implemented to prevent any and all sedimentation of the water of the Watercourse both
 - i. During the implementation of the Remedial Plan; and
 - ii. After completion of the Remedial Plan;
 - f. The measures that will be implemented to prevent any and all erosion of the entirety of the:
 - i. Bed,
 - ii. Shore; and
 - iii. Area adjacent to and uplandof the Watercourse both
 - 1. During the implementation of the Remedial Plan; and
 - 2. After completion of the Remedial Plan;Including but not limited to, the location and design of all erosion prevention measures;
 - g. A detailed plan of how the undisturbed portions of the
 - i. Bed; and
 - ii. Shoreof the Watercourse will remain undisturbed during the implementation of the Remediation Plan;

- h. A detailed description of the measures that will be implemented to restore the vegetation on the
- i. Bed;
 - ii. Shore; and
 - iii. All areas adjacent to and upland of the Watercourse that were disturbed by the construction of the Roads, including the exclusive use of native vegetation; and
- i. The types of
- i. Equipment;
 - ii. Methods; and
 - iii. Materials
- that will be used in implementing the Remedial Plan;
3. In the Remedial Plan, the Company shall include a schedule of implementation for implementing each portion of the Remedial Plan that shall have a completion date of no later than **January 31, 2014**
4. The Company shall implement the work described in the approved Remedial Plan pursuant to the schedule of implementation that is approved by the Director.
5. The Company shall implement each part of the approved Remedial Plan only as described in the approved Remedial Plan and in accordance with the Director's written authorization.
6. The Company shall provide the Director with 5 days notice either by phone or email prior to commencing the remedial work in the Remedial Plan approved by the Director.
7. Within 15 days of completion of the requirements of this Order, the Company shall submit to the Director a final written report (the "Final Report") describing the work undertaken to comply with this Order, and signed by an independent third-party qualified geo-technical professional currently registered with APEGA.

DATED at the Town of ~~Slave Lake~~ ^{High Prairie} in the Province of Alberta, this 7th day of October, 2013.

Original Signed by: Dennis Palkun
Area Manager
Upper Athabasca Region

Notwithstanding the above requirements, the Company shall obtain all necessary approvals in complying with this order.

Take notice that this 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.