

WATER ACT

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

ENFORCEMENT ORDER NO. EO-WA-1287

Carlos Silva
55211-RR 234
Sturgeon County, Alberta T8T 1V6

WHEREAS Carlos Silva (the "Party"), is the registered owner of the land legally described as 13-21-055-23 W4M (the "Lands") located in Sturgeon County;

WHEREAS on July 10, 2023, Alberta Environment and Protected Areas (EPA) received a report via the Alberta Environmental and Dangerous Goods Emergencies hotline (EDGE) of an unauthorized activity within wetlands and creek (the "Watercourse") on the Lands;

WHEREAS on August 17, 2023, an Environmental Protection Officer (EPO) conducted a site inspection and met with the Party at the Lands and observed an unauthorized crossing with a culvert (the "Crossing") through wetlands (the "Wetland") on the Lands;

WHEREAS on August 17, 2023, EPA determined that the Crossing was exempt from requiring an approval under Schedule 1 of the Water (Ministerial) Regulation, but not exempt from requiring an approval under the Act for an activity in a water body;

WHEREAS on August 17, 2023, the Party explained that the Crossing was for agricultural purposes and that he could not remove it from the Wetland without eliminating access to the upland portion of the Lands and causing further wetland/water body impacts.

WHEREAS on August 25, 2023, EPA sent the Party a Notice of Non-Compliance requesting that the Party obtain a Wetland Assessment Report for the Crossing;

WHEREAS on November 1, 2023, a crown ownership assessment request was submitted to EPA Water Boundaries Unit who concluded that the Creek does not meet the criteria for a claim to its bed and shore under Section 3 of the *Public Lands Act*;

WHEREAS on November 15, 2023, the Party's consultant submitted the "Wetland Assessment Report Notice of Non-Compliance #416162 NW-21-55-23W4M B-0511-23" (the "WAR") to EPA, which concluded that the Crossing impacted 0.045 hectares (ha) of "D" value wetland;

WHEREAS the Alberta Wetland Mitigation Directive (the "Directive") identifies the replacement value ratio for a "D" value wetland as 1:1 at \$19,100/ha;

WHEREAS the impacted wetlands are located in the Relative Wetland Value Assessment Unit 1 (the "RWVAU 1") based on the Directive;

WHEREAS the wetland is a “water body” as defined in section 1(1) (ggg) of the Act;

WHEREAS the construction of the Crossing is 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 EPA has not issued an Approval under the Act to the Party, or any other person, authorizing the Crossing and these activities are not otherwise authorized under the Act;

WHEREAS the Party is a person responsible for the Unauthorized Activity pursuant to section 1(1) (kk) of the Act and section 1(5) of the Water (Ministerial) Regulation;

WHEREAS Maxwell Harrison, EPA Compliance Manager, Regulatory Assurance Division, Capital District, is designated as a director for the purpose of issuing Enforcement Orders under the Act (the “Director”);

WHEREAS the Director is of the opinion that the Party has contravened section 36(1) of the Act.

THEREFORE, I, Maxwell Harrison, Director, pursuant to section 135(1) and 136(1) of the Act, HEREBY ORDER THAT:

1. No later than January 15, 2024, the Party shall submit, to the Director, confirmation of receipt of compensation paid to the EPA Wetland Replacement Program for the replacement of 0.045 ha of wetlands lost to the Unauthorized Activity in RWVUA 1 at a replacement ratio of 1:1.
2. Within 7 days of receiving confirmation of payment from the EPA Wetland Replacement Program, the Party will provide a copy of the confirmation to the Director.

DATED at Edmonton, in the Province of Alberta, this 13th day of December 2023.

Maxwell Harrison, Director
Compliance Manager
Northern 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 #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 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 this or any other legislation.