

WATER ACT

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

ENFORCEMENT ORDER NO. WA-EO-2016/01-LAR

A & T Construction and Transit Mix Ltd.
14058 Stanley Drive
Lac La Biche, Alberta
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Brian Tkachuk
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Lac La Biche, Alberta
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Box 1628
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[Collectively "the Parties"]

WHEREAS A & T Construction and Transit Mix Ltd. ["the Company"] is the registered owner of the lands legally described as SW-01-67-14-W4M located within Lac La Biche County, Alberta [the "Lands"];

WHEREAS Brian Tkachuk and Wade Tkachuk are the sole directors of the Company, and at all material times made the decisions in respect of the issues which form the subject-matter of this Order;

WHEREAS the Company owns and operates a concrete producing plant [the "Plant"] on the Lands;

WHEREAS the Lands contain a fen [the "Wetland"] adjacent to the Plant, which lies between two Crown owned water bodies located northwest and southeast of the Plant, respectively;

WHEREAS on April 30, 2015, AEP Environmental Protection Officers [the "EPOs"] – who are designated as inspectors and investigators under the *Water Act* – conducted an aerial inspection of the Lands and observed a large mass of concrete and concrete slurry approximately 450 square metres in size in the Wetland. The EPOs also observed trucks on the concrete mass in the Wetland;

WHEREAS on May 1, 2015, the EPOs conducted a ground inspection of the Lands and observed a truck bearing the Company's logo releasing concrete slurry into the Wetland. During the inspection, the EPOs gathered water samples in and around the Wetland and interviewed Mr. Brian Tkachuk and Mr. Wade Tkachuk;

WHEREAS on May 15, 2015, the EPO emailed the Parties instructing them to stop the release of concrete into the Wetland, to contain the concrete on the Lands, and to contact AEP Approvals staff to determine whether the Plant is subject to the *Code of Practice for Concrete Producing Plants*;

WHEREAS on May 22, 2015, the EPO emailed a "Notice of Non-Compliance" to the Parties directing that a qualified environmental specialist prepare a written remedial plan for the Wetland to be submitted to AEP by July 30, 2015;

WHEREAS on July 28, 2015, Mr. Wade Tkachuk told the EPO that a remedial plan would not be submitted by July 30, 2015, and emailed requesting an extension to submit the remedial plan;

WHEREAS on July 29, 2015, the Director granted an extension to August 10, 2015 at 0800 hours;

WHEREAS on August 4, 2015, AEP staff met with the Parties to discuss the progress and components of the remedial plan;

WHEREAS on August 10, 2015, the Parties submitted a Preliminary Wetland Remediation Plan to the EPO. The Preliminary Wetland Remediation Plan indicated that "[t]he wetland on Site was impacted by washout water produced from concrete production facilities...", and that a site visit to the Lands and further surface water and soil sampling would be completed to develop a final wetland remediation plan by the end of August, 2015;

WHEREAS on August 10, 2015, the EPO emailed the Parties indicating that they may proceed with Preliminary Wetland Remediation Plan;

WHEREAS on September 14, 2015, the EPO had not received the final wetland remediation plan and emailed the Parties that AEP would require the final plan by September 21, 2015;

WHEREAS on September 25, 2015, the EPO emailed the Parties indicating that the final wetland remediation plan must be submitted by September 28, 2015;

WHEREAS on September 29, 2015, Mr. Brian Tkachuk emailed the EPO indicating that a report would be completed by the next week;

WHEREAS on October 8, 2015, Mr. Wade Tkachuk emailed the EPO a document labeled "RPT – AT Final Wetland Remediation Plan – IFR Compensation Version." This document indicated that "[t]he area of wetland impact is 0.62 ha in size...", and provided a proposal to compensate for the loss of the Wetland in place of removing the concrete from the Wetland;

WHEREAS on February 5, 2016 the Director notified the Parties that the document submitted was a compensation proposal and not a remedial plan as requested and advised the Parties to produce a remedial plan on or before March 22, 2016;

WHEREAS on March 3, 2016 the Parties met with the Director and the EPO to further discuss the requirement for a Wetland Restoration Plan. The Director informed the Parties during the meeting that he would be issuing an *Enforcement Order* for the restoration of the Wetland;

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

WHEREAS the placement of the concrete mass and concrete slurry in the Wetland has altered or may become capable of altering the flow or level of water in the Wetland, and has caused or may become capable of causing an effect on the aquatic environment;

WHEREAS altering the flow or level of water in a water body or causing an effect on the aquatic environment is an "activity" as defined in section 1(1)(b) of the *Water Act*;

WHEREAS section 36(1) of the *Water Act* states that no person shall 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 to the Parties or to anyone for the activity of altering the flow or level of water in the Wetland or causing an effect on the aquatic environment, and this activity is not otherwise authorized under the *Water Act*;

WHEREAS each of the Parties are a "person responsible" for the activity described herein pursuant to section 1(1)(kk) of the *Water Act*, and section 1(5) of the *Water (Ministerial) Regulation (AR 205/1998)*;

WHEREAS, Neil Brad, AEP Regional Compliance Manager, Lower Athabasca Region [the "Director"] has been designated as a Director for the purpose of issuing enforcement orders under the *Water Act*;

WHEREAS the Director is of the opinion that the Parties have contravened section 36(1) of the *Water Act*, which is an offence under section 142(1)(h) of the *Water Act*, by conducting an activity without an approval;

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

1. The Parties shall immediately cease all unauthorized activity on the Lands, including any further placement of concrete, fill or any other material in the Wetland.
2. The Parties shall submit to the Director, for the Director's approval, the name and qualifications of a Qualified Wetland Science Practitioner ("QWSP") with experience in preparing a wetland restoration plan (the "Wetland Restoration Plan") by April 9, 2016;
3. The Parties shall ensure that the Wetland Restoration Plan proposed by the QWSP is provided to the Director for review and approval by May 25, 2016.

4. The Parties shall ensure that the Wetland Restoration Plan includes, at a minimum, the following:
 - A. A description of the remedial work that will remove the concrete mass and concrete slurry from the Wetland, including the type of equipment, methods, and materials which will be used;
 - B. A description of the measures that will be taken to minimize any further disturbance to presently undisturbed portions of the Wetland while carrying out the remedial work outlined in paragraph A above;
 - C. A description of where the concrete mass and concrete slurry that is removed from the Wetland will be placed or lawfully disposed of;
 - D. A description of the methods which will be used to return the Wetland to its pre-disturbance condition incorporating, at a minimum, the following:
 1. A description of the hydrological system impacting the Wetland including but not limited to groundwater elevations, groundwater flow, and a description of how groundwater is connected to surface water, including methods or models used to arrive at the description;
 2. A description of pedological and hydrogeological material beneath the concrete mass and concrete slurry in the Wetland including methods and data used to arrive at the description;
 3. A wildlife survey in and around the Wetland including details on the methods used to conduct the survey;
 4. A description of the methods to stabilize and re-vegetate the Wetland using natural seed bank and native riparian vegetation;
 - E. A description of the long-term monitoring and measures that will be implemented to ensure that the Wetland has been returned to pre-disturbance conditions, and to ensure that any future activities on the Lands will not disturb the restored Wetland.
5. The Wetland Restoration Plan shall include a schedule of implementation that shall have a completion date of no later than December 31, 2016.
6. The Parties shall implement the work described in the Wetland Restoration Plan pursuant to the schedule of implementation that is approved by the Director.
7. The QWSP, who has been approved by the Director, shall supervise all work undertaken pursuant to the Wetland Restoration Plan.
8. The Parties shall provide the Director with a minimum of 2 business days' notice by email prior to commencing any work under the Wetland Restoration Plan.
9. Within 6 months of completing the requirements of this Order, the Parties shall submit to the Director a final written report (the "Final Report") describing the work undertaken to comply with this Order, and signed by a QWSP.

DATED at the Hamlet of Lac La Biche in the Province of Alberta, this 23rd day of March, 2016.

Original Signed by: Neil Brad
Regional Compliance Manager
Lower 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 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 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. For further information, please contact the Board Secretary at:

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