

**WATER ACT**

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

WATER MANAGEMENT ORDER NO. WMO-2018/05-UAR

Bowen Contracting Ltd.  
PO Box 130  
Jasper, Alberta  
T0E 1E0

Bowen Contracting Ltd.  
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Jasper, Alberta  
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Murdock Bowen  
PO Box 1022  
Jasper, Alberta  
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(Collectively "the Parties")

WHEREAS Bowen Contracting Ltd. ("the Company") is a corporate entity registered in Alberta and is the owner of the lands legally described as the NE 24-50-26-W5M. ("the Lands") in Yellowhead County, Alberta;

WHEREAS Murdock Bowen is the sole director 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 Maskuta Creek transects the northern portion of the Lands in a meandering pattern;

WHEREAS Maskuta Creek is a fish bearing water body that flows throughout the year supporting fish species such as Brook Trout and Rainbow Trout. All salmonid species require clean cold water and clean small gravel substrate to be able to spawn;

WHEREAS according to the Alberta's Code of Practice for Watercourse Crossings, Edson Management Area Map, the Maskuta Creek is a class C waterbody with a restricted activity period of September 1 to July 15 annually;

WHEREAS on April 30, 2018, Alberta Environment and Parks ("AEP") received a complaint of a steel bridge that was built over a creek on the Lands and that the bridge has now collapsed, causing the banks to collapse into the creek bed.

WHEREAS AEP staff searched the department's records and found no record of a *Code of Practice for Watercourse Crossings* ("the Code of Practice") notice, or any other statutory approval authorizing a crossing to be built over the Maskuta Creek on the Lands;

**WHEREAS** on April 30, 2018, AEP Inspector inspected the Lands, took photographs, and identified:

- A single span bridge ('the Bridge') had been placed directly over Maskuta Creek. The Bridge lacked any visible supports and was placed directly on the West and East banks of the creek for an estimated span of 12 metres and an estimated width of 3 metres,
- The banks and the shoreline underneath the bridge were disturbed exposing bare soil,
- The banks had slumped into the creek and depositing sediment into the water body and narrowing the creek channel,
- Slumping of the East bank is estimated to continue for approximately 20 metres downstream of the crossing location,
- The Bridge itself was in poor repair and exhibits the potential to collapse into the water body. The wooden bridge deck is deteriorated and weathered and the steel frame is covered with rust and was damaged,
- An access road at a point approximately 130 metres from the bridge in a Northwesterly direction had encroached on the banks of the water body;

**WHEREAS** on May 1, 2018, the AEP Inspector phoned Mr. Bowen and discussed the inspection;

**WHEREAS** on May 1, 2018, the AEP Inspector emailed and mailed the inspection report to the Company via its Director, Mr. Bowen and required the company to remove the crossing to bring it into compliance and remediate the bed and shore by June 1, 2018;

**WHEREAS** on June 19, 2018, the AEP Inspector contacted Mr. Bowen and was told that an engineering company was hired and is currently working on a development plan;

**WHEREAS** on August 2, 2018, the AEP Inspector contacted Mr. Bowen and was told that the engineering company had not completed the development plan, a completion date could not be given;

**WHEREAS** on August 2, 2018, AEP Inspectors visited the Land and confirmed that the Bridge was still in place over Maskuta Creek and in use;

**WHEREAS** under section 3 of the *Public Lands Act*, the title to all beds and shores of all permanent and naturally occurring bodies of water, rivers, streams, watercourses, and lakes is vested in the Crown in right of Alberta.

**WHEREAS** the Parties are each a "person responsible" for the activity or works pursuant to section 1(1)(kk) of the *Water Act*, and section 1(5) of the *Water (Ministerial) Regulation* (AR 205/98) (the "*Regulation*");

**WHEREAS** the Bridge is an "activity" under section 1(1)(b)(i) of the *Water Act*, and the Maskuta Creek is a "water body" as defined in section 1(1)(ggg) of the *Act*;

**WHEREAS** the Bridge is also a "works" under section 1(1)(mmm) of the *Water Act*;

**WHEREAS** the Bridge does not require an approval under the *Water Act* or the *Regulation*;

WHEREAS the Director is of the opinion the Bridge has impacted the banks of Maskuta Creek which has caused or may cause an adverse effect on the aquatic environment including fish and fish habitat;

WHEREAS the Director is of the opinion the Bridge may cause an adverse effect on property upstream or downstream of the Bridge;

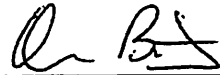
WHEREAS the Director is of the opinion that the Bridge must be removed in order to prevent further adverse effects to the aquatic environment or from occurring to property;

WHEREAS Owen Butz, Compliance Manager, Upper Athabasca Region (the "Director") has been appointed as Director for the purposes of issuing water management orders under the Act;

THEREFORE, I, Owen Butz, Director, pursuant to sections 97(1)(c) and 99(1) of the *Water Act* DO HEREBY ORDER THAT:

1. The Parties shall immediately cease operation or any activity or works related to the Bridge.
2. The parties shall **on or before November 2, 2018** submit the names and qualifications of a Qualified Aquatic Environment Specialist ("QAES") with experience in preparing and implementing a remedial plan to the Director for review and approval.
3. The Parties shall **no later than November 2, 2018** submit to the Director for approval a written remedial plan to remove the Bridge (the "Remedial Plan"). This plan would include, at a minimum:
  - a. How the bed and banks will be protected from any further adverse effect during the removal,
  - b. How the deposition of sediment and or any other deleterious material will be prevented from entering the waterbody both during the removal of the bridge and after,
  - c. How the banks will be stabilized to prevent any further erosion or sedimentation into the waterbody both during and after the removal, and
  - d. What if any revegetation activities i.e., seeding may need to be done and or a rationale of any options that will lead to successful restoration.
4. The Remedial Plan shall include a schedule of implementation for the remedial work, all of which shall be completed **no later than November 2, 2018**.
  - a. The Remedial Plan shall be prepared, stamped and signed by a QAES.
5. The Parties shall implement all the work described in the Remedial Plan pursuant to a schedule of implementation that is approved by the Director.
6. The Parties shall provide the Director with with 3 days' notice in writing prior to commencing the remedial work in the Remedial Plan as approved by the Director.
7. Within 30 days 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 the QAES.

DATED at the City of Spruce Grove in the Province of Alberta, this 9<sup>th</sup> day of October, 2018



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Owen Butz  
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. A copy of section 115 is provided below. There may be a strict time limit for filing such an appeal. For further information, please contact the Board Secretary at: #306 Peace Hills Trust Tower, 10011 – 109<sup>th</sup> 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.**