



File No. A768

**WATER ACT and
ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT ("EPEA")**

BEING CHAPTERS W-3 and E-12 of R.S.A. 2000

ENFORCEMENT ORDER NO.'s: EO-2012/03-CR and WA-EO-2012/07-CR

Brero Holdings Ltd.
c/o Registered Office:
Lee Edgar
4604 49th Street
Red Deer, AB
T4N 1T5
["the Company"]

and

Robert Bresciani
405, 2 Ave NE
Calgary, AB
T2E 0E7
["Bresciani"]

[Hereinafter, the Company and Bresciani will be collectively referred to as the "Parties"]

WHEREAS Brero Holdings Ltd. [the "Company"] is a corporation registered at the Alberta Corporate Registry and is also the registered owner of the lands legally described as Plan 8820936, Block D, in Red Deer County [the "Lands"];

WHEREAS Robert Bresciani is the sole director and shareholder 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 Parties both own and operate "Les' Trailer Court" on the Lands, being a 76 lot mobile home court [the "Trailer Court"] which includes, amongst other services for its residents, the provision of potable water from groundwater wells through a water distribution system, and a wastewater collection and treatment system;

WHEREAS of the 76 lots in the Trailer Court that are leased out, 8 lots have mobile homes that are owned by the Parties and also leased out to tenants with the remaining lots being occupied by mobile homes that are privately owned;

WHEREAS the Trailer Court is occupied year-round and the lots are serviced by the water distribution and wastewater systems;

The Groundwater Wells

WHEREAS groundwater intended as potable water at the Trailer Court is supplied by two known groundwater wells [the "Wells"] located on the Lands as follows:

- Well #1 – [also known as the "Primary Well"] – is located west of Lot 63 and provides the primary source of potable water; and
- Well #2 - [also known as the "Secondary Well"] - is located west of Lot 62 and provides a secondary source of potable water.

WHEREAS the Environment and Sustainable Resource Development ["ESRD"] Groundwater Information Centre shows the two groundwater wells identified for the Lands with GIC Well ID numbers of 99534 and 1590084, respectively;

WHEREAS there is a treatment shack which houses the Primary Well, chlorination unit, two holding tanks, two water softeners and a carbon filter unit;

The Wastewater System

WHEREAS the Wastewater System on the Lands consists of both collection and treatment components, as follows:

- A wastewater collection system including 2 pumping stations, 5 septic tanks and a tile field system servicing 18 units for 7 months of the year; and
- A wastewater treatment plant consisting of a wastewater stabilisation pond (1 facultative storage cell), which discharges treated wastewater to lands in NE 24-38-28 W4M on the Lands.

WHEREAS on July 2, 2011, Approval No. 19906-02-00 under the *Environmental Protection and Enhancement Act* ["EPEA"] was issued by Environment & Sustainable Resource Development ["ESRD"] for the Wastewater System, that includes the following requirements:

- there shall be no release of any substances from the Wastewater System to the surrounding watershed except as authorized by the approval(Clause 4.1.1), and
- the Wastewater System shall be operated by, or under the direction of, a person holding a valid Small Wastewater System Operator certificate at a minimum (Clause 4.2.1).

The 2009-2012 Events

WHEREAS from a period of 2009- 2010, ESRD advised the Parties that they did not have the required diversion licences under the *Water Act* authorizing them to withdraw groundwater for potable water at the Trailer Court, and that further groundwater testing and analysis would be required in order for the Parties to obtain diversion licences for the Wells under the *Water Act*;

WHEREAS during 2011, a number of additional communications (written, email and verbal) between the Parties, their consultants, and ESRD ensued regarding the unlicensed wells and the need for the Parties to obtain *Water Act* diversion licences in order to have the Wells licenced for the authorized diversion of water. In addition, a number of additional communications (written, email and verbal) between the Parties, ESRD and Alberta Health Services ["AHS"] ensued regarding unauthorized wastewater releases and other wastewater system concerns [collectively, the above are the "2011 Communications"];

WHEREAS during these 2011 Communications, ESRD advised the Parties as follows:

- that the Parties were withdrawing water in contravention of the *Water Act*, and that diversion licences were required
- that to obtain a water diversion licence, further groundwater studies would be required, and identified a number of deficiencies with the study work conducted by the consultant for the Parties who had been hired to obtain a water diversion licence on their behalf;
- a number of technical deficiencies were identified by ESRD for the Parties' consultant regarding the requirements that would have to be met prior to the Wells being licenced, including:
 - well construction details and lithology,
 - aquifer test analysis
 - storativity value,
 - impact assessment and sustainable yields, and
 - water quality
- that they must make immediate repairs to the wastewater collection system to prevent further releases and that all future unauthorized wastewater releases must be immediately reported to ESRD.

WHEREAS by letter of February 24, 2012, the Parties' consultant responded to a July 31, 2009 letter from ESRD, and provided its technical review of the hydrogeological assessment of the Wells that had been done previously for the Parties. In this letter, the consultant advised that both Wells are in confined aquifers;

WHEREAS on May 22, 2012, ESRD provided its technical response to the February 24, 2012 letter, stating its opinion that the Primary Well was in an unconfined aquifer, as well as identifying a number of further deficiencies to be addressed under the 'Guide to Groundwater Authorization (ESRD, March 2011);

WHEREAS on June 21, 2012, the Parties' consultant sent a further letter to ESRD agreeing that the Primary Well is located in an unconfined aquifer, and providing a further response to the deficiencies;

WHEREAS on August 3 and 14, 2012, the Parties were advised by the ESRD Investigator that since the Primary Well is located in an unconfined aquifer, the following options were available to them to meet the requirements for the legal diversion of potable water at the Trailer Court

- apply for a licence for the Secondary Well, which is in a confined aquifer;
- Complete a Ground Water Under the Direct Influence of Surface Water ("GWUDI") assessment of the Primary Well as confirmatory proof of whether this well is in a confined or unconfined aquifer;
- Drill a new groundwater well into a confined aquifer that would meet the licencing requirements.

WHEREAS on August 23, 2012, Bresciani advised ESRD that the pipe underground below the mobile homes in Lots 2-28 is rotten and leaking and that he has provided notice to the residents in that area to vacate the property so repairs can be made.

WHEREAS on August 24, 2012, Bresciani advised the ESRD Investigator that he had asked his water well driller to look into the water well licencing matter, and that he would be closing the Trailer Court as soon as possible.

WHEREAS on August 27, 2012, the operator of the Trailer Court confirmed with ESRD that the leaking wastewater collection pipe has not been fixed and continues to plug up causing backups;

WHEREAS on September 5, 2012, Bresciani met with ESRD and AHS to discuss options for compliance with regulatory requirements;

WHEREAS also on September 5, 2012, AHS issued to the Parties an Order of an Executive Officer under the *Public Health Act*, (c. P-37, RSA 2000) containing a boil water advisory, and requiring drinking water monitoring, provision of an alternate safe water source, and operation of the sewage disposal system to prevent contamination of the water supply;

WHEREAS on September 11 and 25, 2012, ESRD sent letters to the Parties summarizing the September 5, 2012 meeting, and recommending that drilling a new water well would be the best option;

WHEREAS on September 13, 2012, the Parties served an eviction notice on all of the residents at the Trailer Court, to vacate by September 13, 2013;

WHEREAS on October 18, 2012, the ESRD Investigator met with Bresciani to discuss the investigation into the unlicensed water wells and non-compliance by the Parties with the Approval for the Wastewater System;

WHEREAS the AHS Order was rescinded on October 11, 2012, though weekly water quality monitoring requirements remain in place;

WHEREAS to date, and despite numerous efforts by ESRD, Parties have failed to obtain a *Water Act* licence for the Wells, and continue to be in non-compliance with Clauses 4.1.1 and 4.2.1 of the Approval in regard to the operation of the Wastewater System;

WHEREAS section 49(1) of the *Water Act* states that no person shall commence or continue a diversion of water for any purpose except pursuant to a licence;

WHEREAS section 227(e) of *EPEA* states that a person who contravenes a term or condition of an approval, a code of practice, a certificate of variance, a reclamation certificate, a remediation certificate or a certificate of qualification, is guilty of an offence.

WHEREAS Martin Paetz, District Compliance Manager, Central Region, [the "Director"] has been appointed a Director for the purposes of issuing enforcement orders under the *Water Act* and the *Environmental Protection and Enhancement Act*;

WHEREAS the Director is of the opinion that the Parties have contravened the following:

- Section 49 of the *Water Act* for the diverting water from the Primary Well and the Secondary Well, both without a licence, which is an offence under section 142(1)(h) of the *Water Act*,
- Clause 4.1.1 of the Approval for the unauthorized release of a substance from the wastewater system to the surrounding watershed
- Clause 4.2.1 of the Approval for the operation of the wastewater treatment plant and the wastewater collection system (collectively, the Wastewater System) by, or under the direction of, a person holding a valid Small Wastewater System Operator certificate, being an offence under section 227(e) of *EPEA*,

THEREFORE, I, Martin Paetz, the Director, pursuant to sections 135(1) and 136(1) of the *Water Act*, and Section 210 of *EPEA*, DO HEREBY ORDER THAT:

1. In respect of the unauthorized diversion of water and provision of potable water, on or before **December 6, 2012**, the Parties shall select and advise the Director in writing of their selection of one of the following options to meet the requirements of the *Water Act* and the *Environmental Protection and Enhancement Act*:

a. **Option A**, which consists of the following requirements:

- i. Effective **immediately**, provide all the residents of the Trailer Court with an alternate supply of treated potable water from an approved source until such time that the New Well (as described below) is in operation and a diversion licence under the *Water Act* has been obtained.
- ii. On or before **January 31, 2013**, drill a new water well into a confined aquifer with high quality groundwater, as defined, and apply for a diversion licence under the *Water Act* in respect of the new well [the "New Well"].
- iii. The New Well must be constructed in accordance with construction requirements and setback distances as identified in the *Water (Ministerial) Regulation*.
- iv. A Groundwater Evaluation Report, including a groundwater under the direct influence of surface water (GWUDI) assessment shall be conducted.
- v. The GWUDI assessment and the Groundwater Evaluation Report must be prepared according to the requirements in the Guide to Groundwater Authorization (ESRD, March 2011) by a qualified groundwater specialist registered with the Association of Professional Engineers and Geoscientists of Alberta (APEGA).
- vi. Once the New Well is in operation pursuant to a *Water Act* licence issued by ESRD, reclaim the Primary Well in accordance with the *Water (Ministerial) Regulation* by **March 31, 2013**.

b. **Option B**, which consists of the following requirements:

- i. Effective **immediately**, provide all residents of the Trailer Court with an alternate supply of treated potable water from an approved source until such time that a new water treatment system is in operation and has been issued an approval under the *Environmental Protection and Enhancement Act*, and diversion licences for both Wells have been obtained under the *Water Act*.
- ii. On or before **January 31, 2013**, construct and apply for an approval under the *Environmental Protection and Enhancement Act*, for a new water treatment system for the treatment of groundwater from the Primary Well.
- iii. On or before **January 31, 2013**, apply for diversion licences under the *Water Act* for both Wells.

c. **Option C**, which consists of the following requirements:

- i. Effective **immediately**, provide all the residents of the Trailer Court with an alternate supply of treated potable water from an approved source
 - ii. On or before **March 31, 2013**, reclaim the Primary Well in accordance with the *Water (Ministerial) Regulation*.
2. Effective **immediately**, the operation of the Wastewater System (wastewater collection and treatment plant) shall be performed by, or under the direct supervision of a person who holds a valid wastewater treatment certificate of qualification at a minimum of Small Wastewater System Operator.
 3. The Parties shall not permit, commence or continue the release of any unauthorized wastewater from the Wastewater System to the environment.

DATED at the City of Red Deer in the Province of Alberta, this 22nd day of November, 2012.

Original Signed by: Marting Paetz
District Compliance Manager
Central Region

Section 115 of the *Water Act* and section 91 of the *Environmental Protection and Enhancement 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. Copies of section 115 of the *Water Act* and section 91 of the *Environmental Protection and Enhancement Act* are 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(ies) shall obtain all other necessary approvals as may be required from any other regulatory authority 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 or any other legislation.